

PX 18

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE)
COMMISSION,)
)
PLAINTIFF,)
)
vs.) Case No.
) 20-Civ-10832 (AT) (SN)
RIPPLE LABS, INC., BRADLEY)
GARLINGHOUSE, AND CHRISTIAN)
LARSEN,)
)
DEFENDANTS.)

CONFIDENTIAL

DEPOSITION OF

ANTOINETTE O'GORMAN

Wednesday, August 4, 2021

Reported By:
KATHLEEN WILKINS,
STENOGRAPHIC REPORTER, CSR 10068
RPR-RMR-CRR-CCRR-CLR-CRC
JOB No. 210804KWI

VIDEOTAPED DEPOSITION OF ANTOINETTE O'GORMAN

BE IT REMEMBERED that on Wednesday,
August 4, 2021, commencing at the hour of 9:11 a.m.
thereof, at King & Spalding, 50 California Street,
Suite 3300, San Francisco, California, before me,
Kathleen A. Wilkins, RPR-RMR-CRR-CCRR-CLR-CRC, a
Certified Stenographic Shorthand Reporter, in and
for the State of California, personally appeared
ANTOINETTE O'GORMAN, a witness in the above-entitled
court and cause, who, being by me first duly sworn,
was thereupon examined as a witness in said action.

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ALSO PRESENT:

[REDACTED] Ripple in-house counsel
Madison Butko, Videographer

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Eliana M. Pfeffer, Esq., Kellogg, Hansen, Todd,
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1 AUGUST 4, 2021

9:11 A.M.

2 P R O C E E D I N G S

3 MORNING SESSION

4 THE VIDEOGRAPHER: This marks the
5 beginning of File Number 1 in the deposition of
6 Antoinette O'Gorman in the matter of SEC versus
7 Ripple Labs, et al.

8 This is a matter pending before the United
9 States District Court, Southern District of New
10 York. Case Number is 20-civ-10832 (AT)(SN).

11 Today's date is August 4th, 2021. The
12 time on the video monitor is 9:11 a.m.

13 My name is Madison Butko, contracted by
14 Gradillas Court Reporting.

15 This video deposition is taking place at
16 50 California Street, San Francisco, California.

17 Counsel, will you please identify
18 yourselves for the record and who you represent?

19 MR. SYLVESTER: This is Mark Sylvester for
20 the plaintiff, the Securities and Exchange
21 Commission.

22 MR. TENREIRO: Jorge Tenreiro, also for
23 the Securities and Exchange Commission.

24 MR. DRYLEWSKI: Alex Drylewski from
25 Skadden Arps for the witness.

1 MS. MAHONEY: Colleen Mahoney from Skadden
2 Aarps for the witness.

3 MS. ZORNBERG: Lisa Zornberg from
4 Debevoise & Plimpton on behalf of Ripple Labs.

5 MS. HAHN: Ashley Hahn of
6 Debevoise & Plimpton on behalf of Ripple Labs.

7 MS. DEARBORN: Meredith Dearborn, Paul
8 Weiss, for defendant Christian Larsen.

9 MR. SOLOMON: Matthew Solomon, Cleary
10 Gottlieb, for Bradley Garlinghouse.

11 [REDACTED] for Ripple.

12 THE VIDEOGRAPHER: Will the court reporter
13 please swear in the witness.

14 ANTOINETTE O'GORMAN,
15 having been duly sworn,
16 was examined and testified as follows:

17 THE VIDEOGRAPHER: You may proceed.

18 EXAMINATION

19 BY MR. SYLVESTER:

20 Q. Good morning, Ms. O'Gorman.

21 A. Hello.

22 Q. Please state your name for the record.

23 A. Antoinette O'Gorman.

24 Q. And are you represented by counsel here
25 today?

1 A. I am.

2 Q. Who is your counsel?

3 A. Skadden. Alex and Colleen here.

4 Q. As you just heard, I'm Mark Sylvester on
5 behalf of the plaintiff, the SEC, here with my
6 colleague Jorge Tenreiro. A few of my other
7 colleagues are listening in remotely.

8 MR. SYLVESTER: Anything that counsel for
9 the witness or defendants, stipulations you want to
10 put on the record before we get started?

11 MS. ZORNBERG: Yes. Thank you.

12 On behalf of all defendants, we designate
13 the transcript of this deposition as "Confidential."
14 And then Ms. O'Gorman and her counsel and the other
15 defendants may elect to designate certain portions
16 as "Highly Confidential" sometime after the
17 deposition.

18 Also, I'd like to put on the record that
19 any objection made by Ms. O'Gorman's video counsel
20 or by counsel for any of the three defendants in the
21 case will preserve the objection on behalf of all
22 for efficiency so we don't have to replicate
23 objections.

24 MR. SYLVESTER: Okay. Thank you.

25 Q. Ms. O'Gorman, have you ever given

1 testimony before?

2 A. Never, no.

3 Q. You've just given an oath to tell the
4 truth, and that's the same oath you would give in
5 court. Even though we're here in a conference, you
6 are obligated to tell the truth today.

7 Do you understand?

8 A. I do.

9 Q. Is there anything at all that might
10 prevent you from being able to answer my questions
11 fully and truthfully today?

12 A. I don't know what you mean by "anything,"
13 but I would imagine that I would be able to tell the
14 whole truth and nothing but the truth so help me
15 God.

16 Q. Excellent.

17 Is there anything you can think of that
18 would impair your ability to tell us -- strike that.

19 Is there anything that you can think of
20 that would impair your ability to answer my
21 questions today?

22 A. I don't believe so, but I suppose I should
23 tell you that [REDACTED]

24 [REDACTED]

25 [REDACTED] But other than

1 that, no.

2 Q. Do you believe that [REDACTED]
3 [REDACTED] will impair your ability to fully and
4 accurately answer my questions?

5 A. I don't believe so, [REDACTED]
6 [REDACTED]

7 MR. SYLVESTER: Off the record, please.

8 THE VIDEOGRAPHER: Okay. We're off the
9 record at 9:15 a.m.

10 (Whereupon, a recess was taken.)

11 THE VIDEOGRAPHER: This is the beginning
12 of File Number 2.

13 We're back on the record at 9:17 a.m.

14 BY MR. SYLVESTER:

15 Q. Okay. So back to the rules of the road.

16 It's important that the court reporter be
17 able to take down everything I say and everything
18 that you say.

19 A. Yeah.

20 Q. So to the best of our ability, I'll try
21 not to speak over you, and you try not to speak over
22 me. Okay?

23 A. Okay.

24 Q. For the record, you have to give verbal
25 answers, so something more than a head nod or a head

1 shake. Okay?

2 A. Yeah. Okay.

3 Q. In answering my questions, please do not
4 tell me the substance of any conversations you've
5 had with counsel.

6 Do you understand?

7 A. I do.

8 Q. Okay. Did you take any steps to prepare
9 for today's deposition?

10 A. I did.

11 Q. What steps did you take?

12 A. I met with my counsel here, Skadden, Alex
13 and Colleen, on a number of occasions, and also met
14 with Debevoise & Plimpton on two occasions.

15 Q. In total, about how much time did you
16 spend in preparing for today's deposition?

17 A. I couldn't say exactly.

18 Q. Was it a matter of hours?

19 A. As opposed to?

20 Q. Minutes.

21 A. Oh, yeah. Surely, yes.

22 Q. More or less than ten hours?

23 A. Couldn't say exactly.

24 Q. More or less than five hours?

25 A. I couldn't say, but yeah, more than five,

1 surely.

2 Q. Ms. O'Gorman, you're familiar with
3 Ripple Labs, one of the defendants in this case?

4 A. I am.

5 Q. You were Ripple's CCO for a time?

6 A. I was.

7 Q. And when I say, "CCO," you know I mean the
8 chief compliance officer?

9 A. I do.

10 Q. Great.
11 You're familiar with the term "digital
12 asset"?

13 MS. ZORNBERG: Objection. Form.

14 MR. DRYLEWSKI: Objection. Form.

15 THE WITNESS: I would hope so, yeah.

16 BY MR. SYLVESTER:

17 Q. Are you familiar with the term "XRP"?

18 A. For sure.

19 Q. XRP is a digit asset, correct?

20 MR. DRYLEWSKI: Objection to form.

21 THE WITNESS: It depends on which -- it
22 depends on how you want to categorize it, but a
23 digital asset is any form of something that has been
24 digitized, yeah.

25 / /

1 BY MR. SYLVESTER:

2 Q. What's the highest level of education
3 you've completed?

4 A. To postgrad.

5 Q. I'm sorry, say that again?

6 A. Postgrad.

7 Q. Postgrad?

8 A. Yeah.

9 Q. What's your postgraduate degree in?

10 A. In business administration.

11 Q. And you have an undergrad degree as well?

12 A. I do.

13 Q. What's your undergraduate degree in?

14 A. Bachelor of arts in languages,
15 specifically.

16 Q. Are you a lawyer?

17 A. No, I am not a lawyer.

18 Q. Have you ever been a lawyer?

19 A. Never, ever.

20 Q. Have you ever gone to law school?

21 A. Never, ever.

22 Q. Prior to joining Ripple, did you do any
23 work related to digital assets?

24 MR. DRYLEWSKI: Objection to form.

25 You can answer if you can.

1 THE WITNESS: No.

2 BY MR. SYLVESTER:

3 Q. Did you ever serve as a CCO anywhere
4 before Ripple?

5 A. No.

6 Q. In any of your jobs prior to joining
7 Ripple, did you ever have any responsibilities
8 involving compliance with the U.S. securities laws?

9 A. No.

10 MR. DRYLEWSKI: Objection to form.

11 Just give a pause after the question, give
12 me a chance to interject with any objections, and
13 make sure you don't start your answer before he
14 finishes his question so we have a clear record.

15 THE WITNESS: No.

16 BY MR. SYLVESTER:

17 Q. Are you employed now?

18 A. No.

19 Q. When did you leave your last employer?

20 A. June 1st, 2021.

21 Q. Who was your last employer?

22 A. [REDACTED]

23 Q. What kind of a business is [REDACTED] ?

24 A. [REDACTED] is a fintech technology
25 software provider. It also has a subsidiary that is

1 a bank, custodial bank, de novo bank, under --

2 (Reporter clarification.)

3 THE WITNESS: -- New York DFS, Department
4 of Financial Services.

5 BY MR. SYLVESTER:

6 Q. Is there any relationship between [REDACTED]
7 and Ripple?

8 MR. DRYLEWSKI: Objection to form.

9 THE WITNESS: There is, yes.

10 BY MR. SYLVESTER:

11 Q. What's that relationship?

12 A. The founder of [REDACTED] was one of
13 the cofounders of Ripple Labs initially.

14 Q. How did you get the job at [REDACTED]

15 A. One of the cofounders I mentioned, [REDACTED]
16 [REDACTED] once he understood that I was leaving
17 Ripple, asked me would I join [REDACTED]

18 Q. What were your duties at [REDACTED]?

19 A. Similar to those at Ripple.

20 Q. Why did you leave?

21 A. Which company?

22 Q. [REDACTED]

23 MR. DRYLEWSKI: Objection to form.

24 You can answer.

25 THE WITNESS: I wanted to expand my career

1 further.

2 BY MR. SYLVESTER:

3 Q. You mentioned that your duties at [REDACTED]
4 were similar to those at Ripple?

5 A. I was -- yeah -- chief compliance officer.

6 Q. Did you have any duties at [REDACTED] that
7 had anything to do with compliance with the U.S.
8 securities laws?

9 A. None.

10 Q. Did you have any duties at [REDACTED] that
11 had anything to do with the SEC?

12 MR. DRYLEWSKI: Objection to form.

13 MS. ZORNBERG: Objection.

14 THE WITNESS: Yeah, I mean, if you want to
15 ask me that question, could you explain what you
16 mean? Had anything to do with the SEC?

17 I mean, there are many topics that we
18 covered, so if you could be more specific, that
19 would be helpful.

20 BY MR. SYLVESTER:

21 Q. Sure.

22 MR. SYLVESTER: Let's look at Exhibit 1,
23 please.

24 (Whereupon, Deposition Exhibit AO-1
25 was marked for identification.)

1 MR. TENREIRO: Shall I start here and ask
2 people to pass down?

3 MR. DRYLEWSKI: That works.

4 MR. TENREIRO: I'm going to keep one for
5 you.

6 Do you have enough for Kat?

7 MR. SYLVESTER: I think we have eight
8 copies.

9 MR. TENREIRO: One, two, three, four,
10 five, six, seven, eight.

11 You can share it down there.

12 MR. DRYLEWSKI: Ms. O'Gorman, feel free to
13 take your time to review the entire document before
14 answering any questions about it.

15 BY MR. SYLVESTER:

16 Q. Ms. O'Gorman, this is Exhibit A01. I'll
17 represent to you that Exhibit A01 was obtained by
18 accessing your public LinkedIn profile.

19 A. Okay.

20 Q. Does this look familiar to you?

21 A. Yes.

22 Q. Did you supply the information in this
23 profile?

24 MR. DRYLEWSKI: Again, feel free to
25 familiarize yourself with the entire document before

1 answering.

2 THE WITNESS: The question was, did I
3 write this profile of myself on LinkedIn?

4 BY MR. SYLVESTER:

5 Q. The question was, did you supply the
6 information?

7 A. I did, yes.

8 Q. Is the information in your LinkedIn
9 profile accurate?

10 A. Yes, it appears to be on page 3 to 4 to 5,
11 and pages 1 and 2 I did not write, of course.

12 Q. Right. And just for the record, pages 1
13 and 2 appear to be links or photos?

14 A. It looks like it's linked articles linked
15 by me, AOG.

16 Q. Taking a look at the entry for chief
17 compliance officer for [REDACTED] I'd like to direct
18 you to the last paragraph. It reads:

19 "Advisor on FinCEN, NYDFS,
20 SEC, CFTC, and global regulatory
21 matters."

22 My question is, what did you advise on
23 pertaining to the SEC?

24 MR. DRYLEWSKI: Objection to form.

25 THE WITNESS: And just to be very clear

1 here, we're talking about [REDACTED] in this instance,
2 which is the company that I had just left.

3 BY MR. SYLVESTER:

4 Q. That's correct.

5 A. Advising on whether or not certain
6 characteristics would require the company or any
7 subsidiary of the company to register with the SEC
8 for any matter.

9 Q. To register with the SEC in what capacity?

10 A. Potentially if we were introducing a new
11 token, potentially for following the guidance that
12 was issued by the SEC in 2018, the framework for
13 digital currencies or tokens, just to be a
14 touchpoint on that matter, including all other
15 regulators here in the U.S. and globally.

16 Q. While you were at [REDACTED] you examined
17 the framework that the SEC issued in 2018 regarding
18 digital assets; is that right?

19 A. That is true.

20 Q. And you examined that framework for the
21 purposes of applying it to a potential digital asset
22 offering by [REDACTED] is that right?

23 MR. DRYLEWSKI: Objection to form.

24 THE WITNESS: That is not correct. That
25 is not an accurate statement.

1 I looked at it because I was chief
2 compliance officer at Ripple at the time, but, also,
3 I would like to be very clear and categorically
4 state that I am not a lawyer, and so my analysis was
5 my own personal analysis of any regulation that
6 might be forthcoming or the guidance provided by
7 regulators either in the U.S. or globally.

8 MR. DRYLEWSKI: Mark, just so we're clear
9 on the record, I think she said, "Ripple." I'm not
10 sure if you meant [REDACTED]

11 THE WITNESS: I meant Ripple because it
12 came out in 2018. I'm not quite sure of the date in
13 2018, but I was very --

14 MR. DRYLEWSKI: The question here was
15 about [REDACTED]

16 THE WITNESS: Oh, [REDACTED] Oh, yeah, of
17 course I did.

18 As chief compliance officer, you have to
19 be aware of every forthcoming guidance or every
20 guidance that was issued or may be potential
21 regulation that may be forthcoming. In order to
22 prepare for that, you have to comply.

23 BY MR. SYLVESTER:

24 Q. Is what you just said regarding the
25 necessity as chief compliance officer of being aware

1 of specifically SEC guidance, is that true of your
2 time at [REDACTED] and Ripple?

3 A. I -- I --

4 MS. ZORNBERG: Object to form.

5 MR. DRYLEWSKI: Objection to form.

6 THE WITNESS: I didn't say specifically
7 the SEC. Any guidance from any regulator from any
8 jurisdiction, when it came to cryptocurrency, which
9 is global in nature.

10 So yeah, you have to be on your game, the
11 top of your game.

12 BY MR. SYLVESTER:

13 Q. Would that guidance that you just
14 referenced in your answer include guidance from the
15 SEC?

16 A. Of course.

17 Q. So the record is clear, we're talking both
18 your time as CCO of Ripple and your time as CCO for

19 [REDACTED]?

20 MR. DRYLEWSKI: Objection to form.

21 THE WITNESS: Yes.

22 MR. DRYLEWSKI: Just give it a pause.

23 It's fine.

24 BY MR. SYLVESTER:

25 Q. Did [REDACTED] ever offer a digital asset

1 while you were CCO?

2 MR. DRYLEWSKI: Objection to form.

3 THE WITNESS: No.

4 BY MR. SYLVESTER:

5 Q. Now, going back to the period prior to
6 when you joined Ripple --

7 MS. MAHONEY: Prior to when she joined
8 Ripple?

9 MR. SYLVESTER: Correct.

10 Q. -- did you know anything about the U.S.
11 securities laws?

12 A. No.

13 Q. Prior to joining Ripple, had you ever read
14 anything on the topic of the U.S. securities laws?

15 A. No.

16 Q. Prior to joining Ripple, did you have an
17 understanding that the sales of digital assets could
18 be sales of securities under U.S. law?

19 MR. DRYLEWSKI: Objection to form.

20 THE WITNESS: No.

21 BY MR. SYLVESTER:

22 Q. Prior to joining Ripple, had you ever
23 spoken with anyone on the topic of how the U.S.
24 securities laws might apply to digital assets?

25 A. No.

1 MR. DRYLEWSKI: Objection to form.

2 BY MR. SYLVESTER:

3 Q. Prior to joining Ripple, had you ever
4 heard of the Howey test?

5 A. I may have.

6 Q. What was your understanding, if any, of
7 the Howey test prior to joining Ripple?

8 MR. DRYLEWSKI: Objection to form. Calls
9 for a legal conclusion.

10 THE WITNESS: It's a long time ago. I
11 couldn't say prior to Ripple.

12 BY MR. SYLVESTER:

13 Q. You couldn't say because you don't recall;
14 is that right?

15 A. That's exactly right, yeah.

16 Q. Prior to joining Ripple, did you ever
17 discuss with anyone whether XRP might be a security?

18 MR. DRYLEWSKI: Objection to form.

19 THE WITNESS: No.

20 BY MR. SYLVESTER:

21 Q. Prior to joining Ripple, did you take any
22 steps to determine whether XRP might be a security?

23 MR. DRYLEWSKI: Objection to form.

24 THE WITNESS: No.

25 / /

1 BY MR. SYLVESTER:

2 Q. Prior to joining Ripple, had you ever
3 considered whether XRP might be a security?

4 A. No.

5 MR. DRYLEWSKI: Objection to form.

6 BY MR. SYLVESTER:

7 Q. You worked at Ripple from February 2015 to
8 May 2018; is that right?

9 A. That is correct.

10 Q. Okay. How did you get the job at Ripple?

11 A. So I had been working with a group -- a
12 consulting group called [REDACTED]

13 that was associated with doing the risk and
14 compliance work for banks and other financial
15 institutions under various enforcement actions.

16 I was an independent consultant and did a
17 very short stint at Ripple in 2014 to help them
18 develop a transaction monitoring program in that
19 capacity.

20 Q. You were a consultant to Ripple in 2014?

21 A. I was a -- an independent consultant with
22 [REDACTED] and they had an
23 engagement with Ripple at that time.

24 Q. And did you have a role in that
25 engagement?

1 A. I did. I helped them develop the
2 transaction monitoring system, or the overarching
3 guidelines towards developing that in Q4 2014.

4 Q. The transaction monitoring system that you
5 helped Ripple develop, transactions in what?

6 A. The funds transfers.

7 Q. In U.S. dollars, XRP, or something else?

8 A. In -- in any -- in any denomination, fiat
9 or otherwise, yeah.

10 Q. Including XRP?

11 A. Yes, including any crypto digital asset.

12 Q. You mentioned you were a consultant.

13 How did it come to be that you joined
14 Ripple?

15 A. I think they might have been impressed
16 based on that engagement, I don't know, but a number
17 of months later, I received an email from [REDACTED]
18 [REDACTED] at the time chief compliance officer at
19 Ripple, asking me if I would like to join the
20 company.

21 Q. Was your engagement in 2014 as a
22 consultant to Ripple through [REDACTED] the first
23 time you heard of XRP?

24 A. Yes.

25 Q. Okay. And what, if anything, did you

1 learn about XRP as part of that consulting
2 engagement?

3 MR. DRYLEWSKI: Objection to form.

4 And I'm going to instruct the witness not
5 to answer to the extent you're divulging any
6 communications that you had with any lawyers.

7 THE WITNESS: Could you repeat the
8 question, please?

9 BY MR. SYLVESTER:

10 Q. What, if anything, did you learn about XRP
11 as part of your consulting role with Ripple in 2014?

12 MR. DRYLEWSKI: Same instruction.

13 THE WITNESS: Yeah. I find that hard to
14 recall. There was so much to learn about blockchain
15 technology more broadly that I can't say how XRP
16 figured into that.

17 BY MR. SYLVESTER:

18 Q. Did you have a conversation with
19 Ms. [REDACTED] about XRP as part of your onboarding
20 process?

21 A. I don't believe so.

22 Q. Did you have a conversation with anyone at
23 Ripple about XRP as part of your onboarding process
24 at Ripple?

25 MR. DRYLEWSKI: Same instruction I gave

1 before, exclude from your answer any communications
2 with lawyers.

3 THE WITNESS: I -- I'm sure I did because
4 XRP was -- [REDACTED] so I must have
5 had discussions about XRP. But to -- to what extent
6 or in what capacity, I don't particularly recall.

7 But if you could be more specific in your
8 questioning, maybe I could answer.

9 BY MR. SYLVESTER:

10 Q. [REDACTED] in
11 connection with your consulting work?

12 A. No.

13 Q. [REDACTED] in connection
14 with your work at Ripple?

15 MS. ZORNBERG: Object to form.

16 THE WITNESS: In connection with my
17 agreeing to take on the position, yes.

18 BY MR. SYLVESTER:

19 Q. [REDACTED]

20 A. Yeah, I guess you could call it that.

21 MR. DRYLEWSKI: Objection to form.

22 THE WITNESS: Sorry.

23 BY MR. SYLVESTER:

24 Q. [REDACTED]
25 [REDACTED]

1 A. [REDACTED] I can only give you the
2 fiat amount. I can't give you the XRP amount
3 because it went up and down. [REDACTED]
4 time.

5 Q. [REDACTED]

6 A. I did.

7 Q. When?

8 A. I believe [REDACTED] - hmm -- 20 -- I
9 can't say for sure, but maybe 2019, 2020. I'm not
10 100 percent sure when.

11 MR. DRYLEWSKI: He's not asking you to
12 guess.

13 THE WITNESS: Okay, yeah.

14 BY MR. SYLVESTER:

15 Q. After you left Ripple?

16 A. Oh, yeah. Long since.

17 Q. As part of your consulting role with
18 [REDACTED] this engagement with Ripple, is that
19 where you learned that Ripple sold XRP?

20 MS. ZORNBERG: Object to form.

21 MR. DRYLEWSKI: Objection to form.

22 THE WITNESS: That's a very, very
23 complicated and complex question. It's not as cut
24 and dried as that.

25 I learned about XRP during that period of

1 time, but I was there for a specific engagement,
2 which was to develop a transaction monitoring
3 system, and for a very specific period of time.

4 So, you know, learning the ins and outs of
5 anything during that period of time would have been
6 secondary to my purpose, consulting at the time, so
7 do you want to be more specific?

8 BY MR. SYLVESTER:

9 Q. Was one of the transactions that your
10 system was monitoring Ripple's sales of XRP?

11 A. No.

12 Q. At what point in time did you learn that
13 Ripple sold XRP?

14 A. Upon my engagement or employment at
15 Ripple, within months thereafter, obviously, the
16 ramp-up period.

17 Q. How did you learn that?

18 MR. DRYLEWSKI: I'm going to instruct the
19 witness not to answer to the extent it divulges the
20 substance of any communications you had with
21 Ripple's lawyers, inside or outside.

22 THE WITNESS: Okay.

23 How did I learn what exactly?

24 BY MR. SYLVESTER:

25 Q. How did you come to learn that Ripple sold

1 XRP?

2 MR. DRYLEWSKI: Same instruction.

3 THE WITNESS: Yeah. So as a BSA officer
4 and subsequent CCO, chief compliance officer, at
5 Ripple, of course, I needed to understand the
6 business inside and out, so it would have been
7 within a period of time after my employment at
8 Ripple.

9 BY MR. SYLVESTER:

10 Q. You said, as chief compliance officer, you
11 needed to know the business of Ripple inside and
12 out; is that right?

13 A. I said, as BSA officer, which is what I
14 was first employed as when I first went to Ripple.
15 I was BSA officer until a period of time thereafter,
16 subsequently chief compliance officer.

17 Q. Understood. Thanks for the correction.

18 About how long were you Ripple's BSA
19 officer?

20 A. Appointed BSA officer from February 2nd,
21 2015 until -- I can't say exactly, but I would say
22 June 2015, generally.

23 Q. When you were BSA officer, to whom did you
24 report?

25 A. Karen Gifford, who was chief compliance

1 officer at the time.

2 Q. Did Ms. [REDACTED] leave that role?

3 A. She did.

4 Q. And you assumed her role?

5 A. I did.

6 Q. When you assumed the role of CCO at Ripple
7 around June 2015, to whom did you report?

8 A. Chris Larsen.

9 Q. For how long did you report to
10 Chris Larsen?

11 A. Until Brad Garlinghouse assumed the CEO
12 role in 2016.

13 Q. After Mr. Garlinghouse assumed the CEO
14 role in 2016, did you begin to report to
15 Mr. Garlinghouse?

16 A. "Begin" is probably not the right word.
17 I had had weekly meetings with Brad up
18 until that point, but certainly, after he assumed
19 the CEO role, we were certainly -- I had weekly
20 meetings with Brad as CEO. But I had had them prior
21 while he was COO.

22 Q. When did your weekly meetings with
23 Mr. Garlinghouse begin?

24 A. I would say probably from the -- his
25 employment, which was, I believe, four months after

1 my employment. I made it a point to meet with him
2 on a weekly basis at my instigation.

3 Q. Why did you instigate those weekly
4 appointments?

5 A. I felt it was important to meet with all
6 members of the leadership team. And he was coming
7 in as the COO of a financial-related fintech
8 technology software provider company, and I felt
9 that it was important that he and I communicate on a
10 regular basis.

11 Q. Other than Ms. [REDACTED] Mr. Larsen and
12 Mr. Garlinghouse, during your time at Ripple, did
13 you report to anyone else?

14 A. No.

15 MR. DRYLEWSKI: Objection to form.

16 THE WITNESS: No, I did not.

17 BY MR. SYLVESTER:

18 Q. From June 15th to the time that you left
19 Ripple, you were Ripple's COO?

20 A. Approximately. I can't say exactly when
21 in June, but yes.

22 Q. And COO is a senior executive position at
23 Ripple?

24 A. It was, yes.

25 Q. What were your duties as COO at Ripple?

1 A. So yes, I had a number of duties on
2 distinct lines, I would say the three pillars, of
3 what I was responsible for.

4 Number one, building up the BSA officer
5 sanctions team, which included, let's just say,
6 FCPA, UK Bribery Act, that type of thing. So being
7 responsible for that because XRP II, which was a
8 subsidiary, sold XRP, and it was a financial
9 institution regulated by New York DFS, Department of
10 Financial Institutions. That was one pillar.

11 The second pillar was I headed global
12 regulatory relations, which was another function
13 that rolled up to me.

14 The third function was general compliance
15 matters, which included, as you can imagine -- and
16 if you want to ask me more questions, you can --
17 anything to do with compliance more broadly, things
18 like, you know, looking over cybersecurity, working
19 with product and engineering teams on how to build
20 out products that would be compliant globally with
21 payments regulation, and that type of thing.

22 Q. What were your duties as head of global
23 regulatory relations?

24 A. I headed the function. It reported into
25 me.

1 Q. What did you do in that capacity?

2 MR. DRYLEWSKI: Objection to form.

3 THE WITNESS: So in that capacity, I would
4 have met with regulators, talked about Ripple. At
5 that time, and particularly initially, it was very
6 early days in crypto and blockchain technology, so
7 it was very educational to a large extent,
8 initially.

9 So to educate them on blockchain
10 technology, educate them on cryptocurrencies,
11 virtual currencies, digital assets, and whatever you
12 want to call it.

13 As regulators, they were very eager to
14 learn more about the technology at the time, very,
15 very different from anything they have been used to
16 in financial regulation up to that point in time.

17 BY MR. SYLVESTER:

18 Q. Which regulators did you meet with?

19 MR. DRYLEWSKI: Objection to form.

20 At any time?

21 BY MR. SYLVESTER:

22 Q. During your tenure as head of global
23 regulatory relations.

24 A. Oh, there were many. Many, many.

25 I will give you an example of the

1 regulators that I met with, but it's not an
2 exhaustive list because there were so many.

3 I met with the FCA in the UK. I met with
4 the FSA in Japan. I met with the FDIC in the U.S.
5 I met with the CFTC. I met with the Fed. I met
6 with other bodies including the IMF, the ECB,
7 European Central Bank, International Monetary Fund
8 to be exact, many, many regulators.

9 Q. And just to give the court reporter a
10 little bit of a break, just slow down a little bit
11 when you're talking, especially when you're talking
12 acronyms.

13 A. Yeah, the International Monetary Fund,
14 IMF; ECB, European Central Bank. FCA was the
15 Financial Conduct Authority in the UK. FSA was the
16 Financial Services Authority in Japan. Et cetera.

17 I am not giving you an exhaustive list.
18 These are just many of the regulators we met with.

19 Q. These are the ones that you recall today?

20 A. No. There are others.

21 Do you want me to really go through?

22 Q. Yeah.

23 A. It's going to take me a long time to
24 remember every single one of them. There were many.

25 All I'm saying is it was a new area of

1 innovation at the time, and so regulators globally
2 were very, very interested in learning a lot more.
3 Many of them came to our officers since the meetings
4 were at their requests to learn more about
5 blockchain technology and virtual assets or
6 convertible virtual currency, or however you want to
7 categorize it. Let's just say digital assets.

8 Q. Did you personally ever meet with the SEC?

9 A. Never, no.

10 Q. Did you ever ask the SEC for a meeting?

11 A. No.

12 Q. Why not?

13 MR. DRYLEWSKI: Objection to form.

14 I'm going to instruct you not to answer to
15 the extent that divulges the substance of any
16 communications you had with any of Ripple's lawyers,
17 inside counsel or outside counsel.

18 THE WITNESS: Mh-hmm.

19 MS. ZORNBERG: And so the record is clear,
20 Ripple makes that same objection. And so be very
21 careful in answering.

22 And if you are unsure or you need a break
23 and you need to talk to Ripple counsel or your own
24 counsel, we can do that.

25 THE WITNESS: Yeah. Those discussions

1 would have involved legal, so I decline to answer
2 that question.

3 BY MR. SYLVESTER:

4 Q. We talked about the three pillars of your
5 duties as CCO --

6 A. Broad pillars, yes.

7 MR. DRYLEWSKI: Let him finish the
8 question before you give an answer for the record.

9 BY MR. SYLVESTER:

10 Q. Did -- were those three pillars your
11 responsibilities throughout your time as CCO or did
12 your duties vary over time?

13 A. You'd have to be more specific. When you
14 say, "vary," I don't know what you mean.

15 Q. Were you always the head of global
16 regulatory relations while you were CCO?

17 A. Yes.

18 Q. Other than meeting with regulators, did
19 you have additional duties as the global head of
20 regulatory relations?

21 A. Yes. Yeah. For sure, yeah.

22 Q. What were those?

23 A. So meeting with regulators was just one
24 aspect of it. But it was also -- the broader aspect
25 of that was speaking at conferences and educating

1 parties, mostly regulators more broadly, on what is
2 a blockchain. What is distributed ledger
3 technology. What does cryptocurrency mean. What is
4 digital assets.

5 It was far more nuanced than just meeting
6 with them. But at the time -- and I, again, will
7 state that this was early 2015 -- the regulators
8 didn't understand to the extent that they do today
9 blockchain technology and virtual currency, digital
10 assets.

11 Q. Was your role in meeting -- I'm sorry.

12 A. Yeah.

13 Q. Was your role in meeting with regulators
14 limited to the 2015 time frame?

15 A. It was not, no. It was my entire time as
16 CCO at Ripple.

17 Q. Prior to meeting with regulators, what, if
18 anything, would you do to prepare for those
19 meetings, generally?

20 MR. DRYLEWSKI: Objection to form.

21 And, of course, the instruction is, do not
22 divulge any communications with counsel -- with
23 Ripple's counsel, inside or outside.

24 THE WITNESS: Mh-hmm.

25 To prepare, it was a -- I recall a deck

1 that would be presented to regulators and other
2 parties -- interested parties on blockchain
3 technology, on Ripple specifically, on, you know,
4 digital assets more broadly.

5 It was really at that stage, and even
6 later, educational in nature.

7 BY MR. SYLVESTER:

8 Q. You mentioned preparing a presentation
9 deck.

10 Would you prepare that deck?

11 A. It would have been prepared. I would have
12 had to have reviewed, I presume, drafts at the time,
13 yeah. But I did not prepare personally it, or
14 those.

15 Q. Would someone that reported to you have
16 prepared those presentations?

17 A. Yes.

18 Q. And you would then review and approve them
19 before they were used in public?

20 A. More often than not, yes, I would imagine.

21 Did the person who reported to me prepare
22 them? Yes.

23 Would they have worked with counsel in
24 preparing those decks? Possibly. Certainly with
25 the marketing team and others at Ripple, yeah.

1 Q. Other than having any
2 conversation -- strike that.

3 Other than conversations you may have had
4 with counsel, what, if anything, did you do to
5 familiarize yourself with the relevant laws or
6 regulations prior to meeting with regulators?

7 MR. DRYLEWSKI: Objection to form.

8 And exclude from your answer any
9 discussions that you had with Ripple's counsel and
10 exclude any activities that you did at the direction
11 of Ripple's counsel.

12 THE WITNESS: Okay.

13 Can you repeat the question, please?

14 BY MR. SYLVESTER:

15 Q. Other than conversations you may have had
16 with counsel, what, if anything, did you do to
17 familiarize yourself with the relevant laws or
18 regulations prior to meeting with regulators?

19 MR. DRYLEWSKI: Same instruction to you.

20 THE WITNESS: Thank you.

21 Other than my capacity as chief compliance
22 officer, there would have been nothing further that
23 I would have done. But, obviously, as chief
24 compliance officer, I would have made it my business
25 to understand any pending -- any guidance, any

1 pending regulation, any guidance forthcoming or in
2 existence.

3 BY MR. SYLVESTER:

4 Q. When you say, "guidance," what does
5 "guidance" mean in that sentence?

6 A. "Guidance" means -- and I'll be very
7 specific here -- FinCEN issued guidance in 2013. It
8 was guidance. It was not a regulation. It was not
9 law. But it became absolutely fundamental to what
10 FinCEN governed at that time.

11 So it was called "guidance," and it's
12 still called "guidance." It has not been enacted
13 into law. So guidance was the issuances by
14 regulators that pertained to anything that might
15 have fallen under any purview at the time.

16 Q. As CCO of Ripple, did you view it as part
17 of your job to keep up-to-date with regulators'
18 guidance?

19 A. Most --

20 MR. DRYLEWSKI: Objection to form.

21 THE WITNESS: Most certainly, yes.

22 BY MR. SYLVESTER:

23 Q. And does that include the SEC?

24 MR. DRYLEWSKI: Objection to form.

25 THE WITNESS: Are you saying would that

1 have included?

2 BY MR. SYLVESTER:

3 Q. Did it.

4 MS. ZORNBERG: Object to form.

5 THE WITNESS: It would have included, yes.

6 BY MR. SYLVESTER:

7 Q. Do you, sitting here today, have any
8 recollection, apart from counsel, of doing anything
9 to keep yourself up-to-date with SEC guidance while
10 you were Ripple's CEO -- COO?

11 MR. DRYLEWSKI: Objection to form.

12 And instruct the witness not to answer to
13 the extent it will divulge any communications with
14 Ripple's counsel or activities that you undertook at
15 the direction of Ripple's counsel.

16 THE WITNESS: Okay. Could you repeat the
17 question, please?

18 BY MR. SYLVESTER:

19 Q. Apart from any conversations that you had
20 with counsel, do you, sitting here today, have any
21 recollection of doing anything to keep yourself
22 up-to-date with SEC guidance while you were Ripple's
23 CCO?

24 MR. DRYLEWSKI: Same objection.

25 Same instruction.

1 MS. ZORNBERG: I'll also add an objection
2 to the term "SEC guidance," which is vague and
3 ambiguous. It was nonexistent.

4 MR. SYLVESTER: Okay. Counsel, please
5 don't testify.

6 THE WITNESS: That was exactly what I was
7 going to say. There was no guidance issued from the
8 SEC at the time.

9 But it was my practice to make sure that I
10 was current with anything that had been issued by
11 any regulator at the time in association with
12 blockchain technology or digital assets, or crypto
13 more broadly, yes.

14 It was something I was -- although I'm not
15 a lawyer, it was something that was important for me
16 to understand and feel that I needed to understand
17 personally.

18 So yes, I would have associated myself or
19 have been -- read any guidance, had it been issued,
20 by any regulator during that time.

21 BY MR. SYLVESTER:

22 Q. Setting aside conversations you may have
23 had with counsel and setting aside the term
24 "guidance," that category of documents --

25 A. Okay.

1 Q. -- was there anything that you can recall
2 doing at Ripple to educate yourself on how the SEC
3 viewed digital assets under the securities laws?

4 MR. DRYLEWSKI: Object to form.

5 Instruct the witness not to answer to the
6 extent it would divulge the substance of any
7 communications you had with Ripple's counsel or any
8 activities you undertook at the direction of
9 Ripple's counsel.

10 MR. TENREIRO: So since we've had that
11 instruction four times, I'd like to get a full
12 record on that.

13 So you're saying if a lawyer told her, you
14 know, read Howey, and she just reads Howey without
15 the lawyer, she just reads --

16 MS. ZORNBERG: Hold on one moment.

17 There's supposed to be one speaker for the
18 SEC at the deposition. Is it your intention,
19 Mr. Tenreiro, to jump in -- or I think Mr. Sylvester
20 should be the speaker for the SEC.

21 MR. TENREIRO: I'm not asking her any
22 questions, Lisa, I'm just asking for a clarification
23 on the privilege assertion, which we've done at
24 other depositions.

25 I mean, you've also stipulated that one

1 objection would be for all parties and several
2 parties object. So I think it can be a little
3 bit -- we can have a little latitude here as to who
4 is allowed to speak. Otherwise, if we're going to
5 keep it to one objection, then one person should
6 object.

7 My question is, is the instruction -- I'm
8 not understanding the instruction on things she
9 might have done at the direction of counsel. I
10 understand the instruction with respect to
11 conversations with counsel.

12 So I just want to be very clear that we
13 understand, if she -- you know, if she walked down
14 the street because a lawyer told her to do that,
15 she's not allowed to tell us that she walked down
16 the street? That's my question.

17 MS. ZORNBERG: I'm going to respond first
18 on behalf of the company.

19 There is -- it is valid to assert
20 privilege on a case-by-case, question-by-question
21 basis depending on the facts and circumstances of
22 the situation.

23 There are times that employees do things
24 at that instruction and direction of counsel. And
25 what they do falls within the ambit of privilege.

1 So I would say let's take it question by
2 question. But the general notion that she should be
3 careful and if there are things that she did at
4 direction of counsel, she should be alert to the
5 possibility of needing to consider, and the company
6 needing to consider whether that's privileged is
7 appropriate. And we're happy to take it question by
8 question.

9 MR. TENREIRO: Thank you.

10 THE WITNESS: I have completely forgotten
11 the question.

12 MR. SYLVESTER: Let's ask the court
13 reporter to read it back.

14 Would you mind reading back my last
15 question?

16 (Record read by the reporter
17 as follows:

18 QUESTION: Setting aside
19 conversations you may have had
20 with counsel and setting aside the
21 term "guidance," that category of
22 documents was there anything that
23 you can recall doing at Ripple to
24 educate yourself on how the SEC
25 viewed digital assets under the

1 securities laws?)

2 MR. DRYLEWSKI: Same objection.

3 Same instruction.

4 THE WITNESS: On how the SEC viewed
5 digital assets, there was nothing forthcoming from
6 the SEC at the time. So I cannot comment on that
7 particular aspect of the question.

8 But did I review the Howey test and how it
9 might apply? Yes, I did.

10 BY MR. SYLVESTER:

11 Q. When did you first review the Howey test?

12 A. I -- I don't recall specifically when.

13 Q. Was it within the first year you were at
14 Ripple?

15 A. I don't know.

16 Q. Was it within the last year you were at
17 Ripple?

18 MR. DRYLEWSKI: Objection. Asked and
19 answered.

20 THE WITNESS: It was during my tenure at
21 Ripple, and other than that, I can't be specific. I
22 don't want to be locked down.

23 BY MR. SYLVESTER:

24 Q. Was there anything that you can recall
25 that prompted you to read the Howey test?

1 MR. DRYLEWSKI: I'm going to object.

2 And I'm going to instruct you not to
3 answer to the extent it reveals or divulges the
4 substance of any communications you had with
5 Ripple's counsel, inside or outside.

6 THE WITNESS: Can you repeat the question,
7 please.

8 BY MR. SYLVESTER:

9 Q. Was there anything that you can recall
10 that prompted you to read the Howey test?

11 MR. DRYLEWSKI: Same instruction.

12 Same objection.

13 THE WITNESS: Mh-hmm. To the best of my
14 recollection -- and this may not be exact -- it was
15 an article issued by [REDACTED] in December 2016
16 that talked about Bitcoin would not be considered a
17 security, potentially, by [REDACTED] and it was
18 brought to my attention by Chris Larsen at the time.

19 BY MR. SYLVESTER:

20 Q. Mr. Larsen brought to your attention the
21 [REDACTED] article?

22 A. He did.

23 Q. What did Mr. Larsen say about the [REDACTED]
24 [REDACTED] article to you?

25 A. He thought it was a very informative

1 article. It probably was one the first of its kind,
2 and thought surely XRP would be considered in the
3 same category as -- and I don't recall the article
4 specifically, so I'm speaking from my memory here --
5 that Bitcoin may not be considered a security, and,
6 you know, surely XRP would not be considered a
7 security, as well as other cryptocurrencies at the
8 time, of which there were a few.

9 Q. In that conversation, did Mr. Larsen
10 express any view as to why he believed XRP would not
11 be considered a security?

12 MR. DRYLEWSKI: Objection to form.

13 And I'm going to instruct you not to
14 answer to the extent that Mr. Larsen conveyed to you
15 the substance of any discussions that he had with
16 Ripple's counsel.

17 THE WITNESS: I don't know what
18 discussions he may have had with Ripple's counsel,
19 but -- so can I answer this question?

20 MR. DRYLEWSKI: In that case, maybe, Lisa,
21 should we take a break?

22 MS. ZORNBERG: Yes.

23 MR. DRYLEWSKI: Why don't we stop for a
24 second and discuss this.

25 MR. SYLVESTER: Just to be clear, you're

1 going to consult with your counsel on the possible
2 privilege objection?

3 MR. DRYLEWSKI: Privilege.

4 THE WITNESS: Yes.

5 MR. SYLVESTER: Okay. Let's take a break.

6 THE VIDEOGRAPHER: Off the record at
7 9:58 a.m.

8 (Whereupon, a recess was taken.)

9 THE VIDEOGRAPHER: This is the beginning
10 of File Number 3.

11 We're back on the record at 10:08 a.m.

12 BY MR. SYLVESTER:

13 Q. So perhaps I'll reask the question.

14 In that conversation with Mr. Larsen, did
15 Mr. Larsen express any view as to why he believed
16 XRP would not be considered a security?

17 MR. DRYLEWSKI: I'll give the same
18 instruction I gave last time.

19 THE WITNESS: He did not.

20 BY MR. SYLVESTER:

21 Q. What else, if anything, other than what
22 you've already testified, did Mr. Larsen say about
23 the [REDACTED] article?

24 MR. DRYLEWSKI: Same instruction.

25 MS. ZORNBERG: Object to form.

1 THE WITNESS: I don't recall anything
2 specifically.

3 BY MR. SYLVESTER:

4 Q. Other than anything we've already
5 discussed today, did any of your duties as CCO touch
6 upon compliance with SEC requirements?

7 MR. DRYLEWSKI: Objection to form.

8 THE WITNESS: Apart from what I stated
9 earlier, which was any guidance forthcoming or
10 anything to do with any forthcoming potential
11 regulation in any matter, it was something that I
12 was current on, no.

13 BY MR. SYLVESTER:

14 Q. As CCO, you also kept yourself up-to-date
15 on current guidance, not just forthcoming guidance,
16 correct?

17 A. That would be correct, yes.

18 Q. And current law?

19 A. I'm not a lawyer, so as it pertained to my
20 role as compliance officer, yes. But I'm not a
21 lawyer, so ...

22 Q. You would keep yourself up-to-date on the
23 current rules that applied to Ripple's business; is
24 that fair?

25 MR. DRYLEWSKI: Objection to form.

1 THE WITNESS: I think that would be fair,
2 broadly, yes.

3 BY MR. SYLVESTER:

4 Q. As Ripple's CCO, did you view yourself as
5 having any role with respect to Ripple's compliance
6 with the U.S. securities laws?

7 MR. DRYLEWSKI: Objection to form.

8 THE WITNESS: Could you repeat the
9 question, please? Sorry.

10 BY MR. SYLVESTER:

11 Q. Sure.

12 As Ripple's CCO, did you view yourself as
13 having any role with respect to Ripple's compliance
14 with the U.S. securities laws?

15 MR. DRYLEWSKI: Objection.

16 THE WITNESS: I would say no.

17 BY MR. SYLVESTER:

18 Q. Who at Ripple had that role?

19 A. As a matter of course, it would have
20 clearly been legal.

21 Q. Anyone else in senior management?

22 A. If you want to interpret legal or law, it
23 would surely have fallen under legal.

24 Q. As CCO, were there aspects of Ripple's
25 business that you needed to be familiar with in

1 order to do your job well?

2 A. A very broad statement. If you could be
3 more specific, I could answer, but broadly, yes, of
4 course.

5 Q. Well, in your view as CCO, what aspects of
6 Ripple's business did you need to be familiar with
7 to do your job well?

8 A. Very broad. Can you be more specific,
9 really?

10 Q. Sure.

11 Did you need to know how Ripple made
12 revenues?

13 A. Yes.

14 Q. How did Ripple make revenues while you
15 were CCO?

16 A. You probably --

17 MR. DRYLEWSKI: Objection to form.

18 THE WITNESS: You probably have to ask the
19 CFO and others more well-versed in that matter than
20 I.

21 I was compliance, meaning compliance with
22 laws and regulations that had been issued and/or
23 being current on what might be forthcoming.

24 Revenue is completely separate, would fall
25 under the finance department.

1 BY MR. SYLVESTER:

2 Q. I want to make sure I understand your
3 testimony, Ms. O'Gorman.

4 I asked, did you need to know how Ripple
5 made revenues?

6 And you said yes, correct?

7 A. I didn't need -- sorry. Thank you for
8 clarifying.

9 I didn't need to know. It was not part of
10 my job.

11 Q. Did you know?

12 A. Broadly.

13 Q. Broadly --

14 A. Yeah.

15 Q. -- how did Ripple make money?

16 MR. DRYLEWSKI: Objection to form.

17 THE WITNESS: Are you asking me how did
18 Ripple make money?

19 BY MR. SYLVESTER:

20 Q. Yes, ma'am.

21 A. Okay. A number of different ways.

22 Obviously, Ripple is a financial
23 technology software company and made money as a
24 result of the products that were developed by the
25 company for global payments transactions using

1 blockchain technology.

2 Q. Is it fair to sum up that answer as Ripple
3 sold software?

4 MR. DRYLEWSKI: Objection to form.

5 THE WITNESS: That's -- yeah. That's
6 very -- I wouldn't say that specifically. It was
7 more nuanced than that, but yeah, that was one
8 aspect.

9 BY MR. SYLVESTER:

10 Q. Did Ripple also sell XRP?

11 A. Yes.

12 Q. Did you have a sense of how much of
13 Ripple's revenues came from the sales of XRP versus
14 the sales of any other product?

15 A. I did not. It was not part of my
16 responsibility.

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22 Q. You mentioned earlier, Ms. O'Gorman, that

23

24 A. Mh-hmm.

25 Q. Were you ever -- other than that

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[REDACTED]

A. [REDACTED]

Q. When?

A. Maybe 2016, 2017.

[REDACTED]

Q. In total?

A. Yes.

[REDACTED]

Q. Approximately how many shares of Ripple

1 were you issued in compensation in total?

2

3

4

5

6 Q. And that's a number of options, not a

7 dollar value?

8 A. That's the number of options, yeah.

9 Q. Are you still an owner of those options

10 today?

11 A. I am an owner of more than -- slightly

12 more than [REDACTED] I purchased -- exercised

13 those options.

14 Q. Have you ever sold any Ripple options?

15 A. Yes.

16 Q. How did you do so?

17 A. On the secondary market, I sold

18 [REDACTED]

19 Q. You sold [REDACTED] of the options that

20 you were issued on the secondary market?

21 A. Yeah, the shares that I had exercised. So

22 options exercised, I sold [REDACTED] of those

23 shares.

24 Q. Thank you.

25 Approximately, when was that?

1 A. Second half of 2018.

2 Q. Other than the [REDACTED] in XRP, were
3 you ever compensated in XRP?

4 A. No.

5 Q. Have you ever purchased Ripple equity?

6 A. Meaning did I exercise my options?

7 Q. Great point.

8 Setting aside exercising your options, did
9 you ever purchase Ripple equity, say, in the
10 secondary market?

11 A. Oh, yeah. No.

12 Q. Have you ever purchased XRP?

13 A. No.

14 Q. [REDACTED]

15 A. [REDACTED]

16 Why not?

17 MS. ZORNBERG: Objection to form.

18 THE WITNESS: Thank you.

19 Why not?

20 Why would I?

21 BY MR. SYLVESTER:

22 Q. You testified earlier that you reported to
23 Ms. [REDACTED] Mr. Larsen and Mr. Garlinghouse at
24 various times.

25 A. I did.

1 Q. Other than those three, who were the
2 Ripple employees that you frequently interacted with
3 during your tenure as CCO?

4 MR. DRYLEWSKI: Objection to form.

5 THE WITNESS: I would say the gamut of
6 Ripple employees, many, many of them. But if you
7 want to be very specific about it, obviously,
8 leadership team members.

9 BY MR. SYLVESTER:

10 Q. Who are those people?

11 A. Legal, [REDACTED] Prior to that, [REDACTED]
12 [REDACTED] Patrick Griffin, head of biz dev. Asheesh
13 Birla, head of product. Monica Long, head of
14 marketing. [REDACTED] head of operations
15 globally. [REDACTED] head of engineering. It
16 depends on particular time frames, but the head of
17 HR. [REDACTED] head of customer success.
18 [REDACTED] head of sales.

19 There may have been others that I'm not
20 recalling right now, but yeah, everyone on the
21 leadership team.

22 Q. What duties, if any, as CCO did you have
23 with respect to Ripple's business development
24 activities?

25 MS. ZORNBERG: Object to form.

1 You can answer, if you can.

2 THE WITNESS: Okay.

3 I would review potential deals, deals
4 contemplated.

5 BY MR. SYLVESTER:

6 Q. For what purpose would you review
7 potential deals?

8 MR. DRYLEWSKI: Objection to form.

9 And instruct you not to answer to the
10 extent it divulges any communications with lawyers.

11 THE WITNESS: For example -- I'll give an
12 example here -- banks that wanted to join RippleNet
13 compliance would conduct due diligence on those
14 banks to understand was there any enforcement
15 actions against them, was there anything that we
16 would need to be aware of prior to having banks that
17 wanted to license xCurrent software, which is
18 bank-to-bank software. We would do that type of
19 thing.

20 BY MR. SYLVESTER:

21 Q. And how about Ripple's marketing
22 activities; what duties, if any, as Ripple's CCO,
23 did you have with respect to Ripple's marketing
24 activities?

25 A. Informal.

1 Q. I'm sorry?

2 A. Informal.

3 Q. You had informal duties?

4 A. Yes. It wasn't set in stone. It wasn't
5 part of my job description. It wasn't ...

6 Q. What were some examples of informal duties
7 that you had with respect to marketing?

8 A. Reviewing maybe certain contemplated
9 announcements or certain contemplated log posts,
10 perhaps.

11 But that was not a formal duty of mine.

12 Q. When you reviewed certain contemplated
13 announcements, for what purpose did you review
14 those?

15 MR. DRYLEWSKI: Objection to form.

16 And exclude from your answer the substance
17 of any communications with lawyers, if any.

18 THE WITNESS: So yes, I decline to answer
19 because a lawyer may have been involved.

20 BY MR. SYLVESTER:

21 Q. All right. Setting aside -- let's break
22 that down.

23 Setting aside any occasion where you can
24 recall a lawyer's involvement, I'm not asking about
25 that.

1 A. Sure.

2 Q. Can you recall another occasion where you
3 reviewed a contemplated announcement by Ripple?

4 MS. ZORNBERG: That's a yes-no.

5 MR. DRYLEWSKI: Yeah.

6 THE WITNESS: Okay. Yes.

7 BY MR. SYLVESTER:

8 Q. Okay. What was that occasion?

9 A. Broadly, for language, to make sure
10 language was accurate and precise.

11 Q. What language?

12 A. It depended. I'm saying broadly. I
13 didn't review every single thing written by
14 marketing. Let's be very clear on that front. But
15 perhaps I did on certain occasions.

16 Q. Of any contemplated announcement that you
17 can recall reviewing, what was the language
18 involved?

19 MR. DRYLEWSKI: Object to form.

20 And I'm going to instruct you not to
21 answer to the extent your answer divulges the
22 substance of any communications with Ripple lawyers.

23 THE WITNESS: Okay.

24 I don't recall.

25 / /

1 BY MR. SYLVESTER:

2 Q. You also mentioned blog posts.

3 Again, setting aside any conversations you
4 may have had with counsel, what was the substance of
5 blog posts that you reviewed at Ripple?

6 A. I honestly don't recall. I'm speaking
7 very generally here.

8 Q. Are there any other informal duties that
9 you can recall that you had with respect to
10 marketing?

11 A. I don't recall specifically anything.

12 Q. Do you have a general recollection of
13 doing anything else with respect to marketing?

14 MS. ZORNBERG: Object to form.

15 MR. DRYLEWSKI: Objection.

16 THE WITNESS: No, not specifically. It's
17 not something I focused on.

18 BY MR. SYLVESTER:

19 Q. Do you recall any occasion when anyone
20 other than a lawyer at Ripple asked you to review a
21 contemplated public statement by Ripple?

22 A. You mean apart from legal and apart from
23 marketing?

24 Q. Just apart from legal.

25 A. Apart from legal?

1 Q. So Ms. Long, Mr. Garlinghouse, Mr. Larsen,
2 anyone else at Ripple who is not a lawyer?

3 A. Who's not a lawyer.

4 Yeah, the marketing group may have asked
5 me to review. I don't recall any specifics but
6 yeah.

7 Q. Just to make sure I understand your
8 testimony, the marketing group may have asked you to
9 review a contemplated public statement by Ripple,
10 but sitting here today, you can't remember any of
11 the content of those public statements?

12 A. No. Absolutely not.

13 MR. DRYLEWSKI: Objection to form.

14 THE WITNESS: No.

15 BY MR. SYLVESTER:

16 Q. While you were at Ripple, did you have any
17 interactions with someone named Mr. Ryan Zagone?

18 A. He reported to me.

19 Q. What was Mr. -- I'm sorry.

20 What was Mr. Zagone's role?

21 A. He headed the regulations team at the
22 time.

23 Q. During the time that you reported to
24 Mr. Larsen, how often did you typically speak with
25 him when you were reporting to him?

1 A. On a monthly basis.

2 Q. What topics, if any, did you typically
3 discuss?

4 MS. ZORNBERG: Object to form.

5 You can answer.

6 THE WITNESS: So to be clear, we were in
7 2015 here, so it was mainly the FinCEN, DOJ
8 enforcement action aspects. And then others as they
9 came up. But compliance, obviously, matters.

10 BY MR. SYLVESTER:

11 Q. Did you email with Mr. Larsen when you
12 were reporting to him?

13 A. I'm sure I did.

14 Q. How frequently?

15 A. I couldn't say.

16 Q. Because you don't remember?

17 A. I don't, no.

18 Q. Do you know what Slack is?

19 A. Yes.

20 Q. Did you ever communicate with Mr. Larsen
21 via Slack?

22 MR. DRYLEWSKI: Objection to form.

23 Any time?

24 BY MR. SYLVESTER:

25 Q. Let's start with any time.

1 A. At any time, I honestly don't recall.
2 It's not something that I would have used with
3 Chris, I don't think, but I may have infrequently
4 conversed with him over Slack.

5 Q. Other than the conversation with
6 Mr. Larsen that we've already discussed about the
7 [REDACTED] report --

8 A. Yeah.

9 Q. -- were there any other occasions where
10 you talked with Mr. Larsen about the application of
11 securities laws to digital assets?

12 MS. DEARBORN: Object to form.

13 And I'm sure that this objection is
14 coming, but I would instruct the witness not to
15 answer to the extent it reveals conversations with
16 Ripple's counsel or information that may have been
17 conveyed to Mr. Larsen solely through counsel.

18 THE WITNESS: I'm going to have to ask you
19 to repeat the question.

20 MR. SYLVESTER: Sure.

21 Yeah, Kat, would you go ahead and repeat
22 the question?

23 MR. DRYLEWSKI: That's fine. Let's get
24 the question.

25 (Record read by the reporter

1 as follows:

2 QUESTION: Other than the
3 conversation with Mr. Larsen that
4 we've already discussed about the
5 [REDACTED] report, were there any
6 other occasions where you talked
7 with Mr. Larsen about the
8 application of securities laws to
9 digital assets?)

10 MR. DRYLEWSKI: Ms. O'Gorman, I'm going to
11 instruct you not to answer to the extent it divulges
12 the content of any communications with lawyers,
13 either your communications with lawyers or
14 Mr. Larsen's communications with any lawyers,
15 Ripple, inside or outside counsel.

16 THE WITNESS: Okay.

17 I may have. I don't recall.

18 BY MR. SYLVESTER:

19 Q. Just so the record's clear, this is a
20 yes-or-no question.

21 A. Okay.

22 Q. Did you have any conversations with
23 Mr. Larsen involving the application of the
24 securities laws to digital assets in which you
25 understand that what Mr. Larsen was conveying to you

1 was information that he learned from counsel? Yes
2 or no.

3 MR. DRYLEWSKI: You can answer that
4 question "yes," "no," "I don't know," "I don't
5 recall."

6 THE WITNESS: I don't know would be the
7 most accurate answer here. I don't know.

8 BY MR. SYLVESTER:

9 Q. Moving on to the time that you reported to
10 Mr. Garlinghouse --

11 A. Mh-hmm.

12 Q. -- I think you mentioned you met with him
13 weekly; is that right?

14 A. Legally?

15 Q. Weekly.

16 A. Oh, weekly. Sorry.

17 Yes. I did, yes.

18 Q. Were those meetings person?

19 A. Yes.

20 Q. And you met with him weekly throughout the
21 time that you reported to him; is that right?

22 A. Yes.

23 Q. Okay. What topics, if any, did you
24 typically discuss with Mr. Garlinghouse?

25 MS. ZORNBERG: Object to form.

1 MR. DRYLEWSKI: Object to form.

2 And I'm going to instruct you -- same
3 instruction you've heard, exclude from your answer
4 the substance of any communications with Ripple's
5 lawyers or that you understand -- understood
6 Mr. Garlinghouse had with any of Ripple's lawyers,
7 inside or outside counsel.

8 THE WITNESS: Okay.

9 I spoke with him on compliance matters.

10 BY MR. SYLVESTER:

11 Q. Which compliance matters that you can
12 recall sitting here today?

13 A. Any of the time --

14 MR. DRYLEWSKI: Let me just say, I'm going
15 to give you the same instruction I just gave you.

16 Do you understand?

17 THE WITNESS: Yes, I do. I do.

18 Any compliance matter that I felt was
19 pertinent to raise during any of those weekly
20 meetings.

21 As you can imagine, "weekly" means a
22 number of different topics at any point in time. I
23 can't say specifically any one.

24 BY MR. SYLVESTER:

25 Q. Can you recall any topic that came up in

1 several weekly meetings?

2 MS. ZORNBERG: Object to form.

3 MR. DRYLEWSKI: Object to form.

4 And the same instruction I already gave.

5 THE WITNESS: You know, you have to be

6 time-frame specific here.

7 Obviously, in the beginning, there was a
8 lot of FincEN-related matters. It was a lot of
9 remediation under the FincEN/DOJ settlement. Very,
10 very, you know, top of mind at that particular time.

11 So I'm just going to say compliance
12 matters.

13 BY MR. SYLVESTER:

14 Q. After the FincEN settlement was wrapped
15 up, were there any other topics that you can recall
16 that were frequent topics of conversations between
17 you and Mr. Garlinghouse?

18 MR. DRYLEWSKI: Objection to form.

19 MS. ZORNBERG: Object to form.

20 MR. DRYLEWSKI: And same instruction I
21 gave before.

22 Do you remember the instruction or should
23 I repeat it?

24 THE WITNESS: I do. I remember the
25 instruction.

1 MR. DRYLEWSKI: Okay.

2 THE WITNESS: We had weekly meetings. I
3 would always provide an agenda, so you might have
4 that information at hand. I always emailed an
5 agenda to Brad for discussion during those meetings,
6 so I'm sure you have that information.

7 BY MR. SYLVESTER:

8 Q. Prior to meeting with Mr. Garlinghouse,
9 you would prepare an agenda for the meeting and send
10 it to him via email?

11 A. Always.

12 Q. Always.

13 And was it typically your practice to
14 cover that agenda with Mr. Garlinghouse in your
15 weekly meetings?

16 A. Broadly, yes. That was my intention,
17 whether we got to every matter ...

18 Q. Other than those weekly agenda emails we
19 just discussed, did you email with Mr. Garlinghouse
20 while you were reporting to him?

21 MR. DRYLEWSKI: Objection to form.

22 THE WITNESS: Yes.

23 BY MR. SYLVESTER:

24 Q. How frequently?

25 A. Couldn't say. Whenever I needed to.

1 Q. Daily?

2 MS. ZORNBERG: Object to form. Asked and
3 answered.

4 THE WITNESS: It could have been. It may
5 not have been.

6 BY MR. SYLVESTER:

7 Q. And did you ever communicate with
8 Mr. Garlinghouse via Slack?

9 A. I'm sure I did, yes.

10 Q. Approximately how frequently would you say
11 you communicated with Mr. Garlinghouse via Slack?

12 MR. DRYLEWSKI: Objection to form.

13 THE WITNESS: I honestly could not say.

14 BY MR. SYLVESTER:

15 Q. Would you say that typically, it was at
16 least once a week?

17 MR. DRYLEWSKI: Objection to form.

18 THE WITNESS: I really couldn't say. I
19 don't know.

20 BY MR. SYLVESTER:

21 Q. Was it rare?

22 MR. DRYLEWSKI: Objection to form.

23 MS. ZORNBERG: Objection.

24 THE WITNESS: I couldn't say. I'm sure
25 you have those records.

1 BY MR. SYLVESTER:

2 Q. Would you say that you communicated with
3 Mr. Garlinghouse more over email or more over Slack?

4 MR. DRYLEWSKI: Objection to form.

5 THE WITNESS: I would say more over email.

6 BY MR. SYLVESTER:

7 Q. Okay. Did you ever communicate directly
8 with Ripple's board of directors?

9 A. I did.

10 Q. When were those occasions?

11 MR. DRYLEWSKI: Objection to form.

12 Go ahead.

13 THE WITNESS: Minimum, quarterly basis.

14 BY MR. SYLVESTER:

15 Q. Did you present at Ripple's board of
16 director meetings?

17 A. I did.

18 Q. Broadly, what were the topics of those
19 presentations?

20 MR. DRYLEWSKI: I'm going to object to
21 form.

22 MS. ZORNBERG: Object to form.

23 MR. DRYLEWSKI: I'm going to give you the
24 same instruction, exclude from your answer -- or
25 avoid divulging the substance of any communications

1 involving lawyers or any communications that others
2 gave to you that were -- that relayed the substance
3 of any communications with Ripple's lawyers.

4 Do you understand?

5 THE WITNESS: I do. Thank you.

6 I provided compliance updates to the board
7 on a minimum quarterly basis depending on the board
8 meeting scheduling.

9 BY MR. SYLVESTER:

10 Q. Can you recall the topics of any of those
11 compliance updates that you provided to the board?

12 MR. DRYLEWSKI: Same instruction.

13 THE WITNESS: Mh-hmm.

14 Yes, I can. It would have been any
15 updates with regard to the three areas that I was
16 responsible for, the three compliance areas that I
17 mentioned earlier.

18 BY MR. SYLVESTER:

19 Q. One of those areas was global regulatory
20 relations?

21 A. That's right.

22 Q. Did you ever provide any updates to
23 Ripple's board of directors having anything to do
24 with the U.S. securities laws?

25 A. Never --

1 MR. DRYLEWSKI: Objection to form.

2 THE WITNESS: -- that I recall.

3 BY MR. SYLVESTER:

4 Q. Was counsel present at board of director
5 meetings?

6 A. Always.

7 Q. Have you ever used the messaging
8 application Signal to communicate with Ripple
9 employees?

10 A. I don't even know what it is.

11 Q. Why did you leave Ripple?

12 MR. DRYLEWSKI: Objection to form.

13 THE WITNESS: Over personal reasons.

14 BY MR. SYLVESTER:

15 Q. Were you asked to leave?

16 A. No.

17 Q. Was the SEC investigating Ripple before
18 you left Ripple?

19 MR. DRYLEWSKI: Objection to form.

20 Exclude from your answer the substance of
21 any communications you had with Ripple's lawyers.
22 If you can answer the question without doing that,
23 you can answer.

24 THE WITNESS: Okay.

25 Not to my knowledge.

1 BY MR. SYLVESTER:

2 Q. Moving for the time to the post-Ripple
3 time period.

4 MR. DRYLEWSKI: And just for a second, it
5 seems like you're transitioning now, should we take
6 a break?

7 MR. SYLVESTER: How long have we been
8 going?

9 THE VIDEOGRAPHER: Twenty-five minutes.

10 MR. DRYLEWSKI: Twenty-five minutes total?

11 THE VIDEOGRAPHER: No.

12 MR. DRYLEWSKI: Since the last break, how
13 much total.

14 THE VIDEOGRAPHER: One hour, eleven
15 minutes.

16 MR. SYLVESTER: How are you feeling?

17 MR. DRYLEWSKI: How are you feeling? Do
18 you want to press on or do you want to take a break?

19 THE WITNESS: Take a break, coffee.

20 MR. SYLVESTER: Fine with me.

21 Off the record.

22 THE VIDEOGRAPHER: Okay. Off the record
23 at 10:34 a.m.

24 (Whereupon, a recess was taken.)

25 THE VIDEOGRAPHER: This is the beginning

1 of File Number 4.

2 We're back on the record at 10:50 a.m.

3 BY MR. SYLVESTER:

4 Q. Okay. Ms. O'Gorman, so focusing now again
5 on the time period after you left Ripple.

6 Have you communicated with Mr. Larsen
7 since leaving Ripple?

8 A. Yes.

9 Q. How many times?

10 A. Couldn't say.

11 Q. Because you don't remember?

12 A. It was nothing I kept track of.

13 Q. Sure.

14 Under ten?

15 A. Couldn't say.

16 Q. Under than 100?

17 MR. HECKER: Objection to form. Asked and
18 answered.

19 THE WITNESS: I honestly couldn't say.

20 BY MR. SYLVESTER:

21 Q. Okay. Were any of those communications in
22 person?

23 A. Yes.

24 Q. How many times did you meet with
25 Mr. Larsen in person after leaving Ripple?

1 A. A number of occasions. I couldn't say
2 exactly.

3 Q. Your in-person meetings Mr. Larsen after
4 leaving Ripple, did you ever discuss with him the
5 SEC's investigation of Ripple?

6 MR. HECKER: Objection to form.

7 THE WITNESS: I may have. I don't recall.

8 BY MR. SYLVESTER:

9 Q. What, if anything, do you recall
10 Mr. Larsen saying about the SEC's investigation of
11 Ripple after you left Ripple?

12 MR. HECKER: Objection to form.

13 THE WITNESS: You're assuming I know about
14 the SEC investigation. I don't know what you
15 exactly mean by "investigation." I don't know what
16 you're referring to.

17 BY MR. SYLVESTER:

18 Q. Fair enough.

19 Do you have an understanding that in this
20 case, the SEC is the plaintiff and has sued Ripple?

21 A. I do understand that, yeah.

22 Q. Do you know that prior to the filing of
23 this lawsuit, the SEC investigated Ripple?

24 A. I don't know that.

25 MR. HECKER: Objection to form.

1 BY MR. SYLVESTER:

2 Q. So focusing just on this litigation, which
3 you're aware of, after you left Ripple, did you have
4 any conversations with Mr. Larsen about the SEC's
5 litigation against -- against Ripple?

6 A. No.

7 MR. HECKER: Objection to form.

8 Just give me a moment --

9 THE WITNESS: Sorry.

10 MR. HECKER: -- to object.

11 BY MR. SYLVESTER:

12 Q. And I was speaking earlier about in-person
13 meetings.

14 Do -- since leaving Ripple, have you
15 spoken with Mr. Larsen on the phone?

16 A. Yes.

17 Q. About how often?

18 A. I couldn't say. I mean, I know him. We
19 talk.

20 Q. Regularly?

21 MR. HECKER: Objection to form.

22 MS. ZORNBERG: Objection to form.

23 THE WITNESS: No. I wouldn't say
24 anything -- you know, lined up schedules? No.

25 / /

1 BY MR. SYLVESTER:

2 Q. And do you ever communicate with
3 Mr. Larsen via email since leaving Ripple?

4 A. I have, yes.

5 Q. About how frequently?

6 A. Very infrequently.

7 Q. Okay. Once again, in-person meetings,
8 phone calls and emails, since leaving Ripple, have
9 you ever communicated with Mr. Larsen about the
10 SEC's litigation against Ripple?

11 A. Never.

12 MS. ZORNBERG: Okay.

13 THE WITNESS: Sorry.

14 BY MR. SYLVESTER:

15 Q. Again, since leaving Ripple, any form of
16 communication, have you ever communicated with
17 Mr. Larsen about XRP status under the securities
18 laws?

19 MR. HECKER: Objection to form.

20 THE WITNESS: No.

21 BY MR. SYLVESTER:

22 Q. Have you communicated with
23 Mr. Garlinghouse since you left Ripple?

24 A. I think I answered that already, yes.

25 Q. I apologize if I forgot your answer.

1 Have you met with Mr. Garlinghouse in
2 person since leaving Ripple?

3 MS. ZORNBERG: Objection. Asked and
4 answered.

5 You just asked a series of questions about
6 Mr. Garlinghouse. Now you're asking questions about
7 Mr. Garlinghouse?

8 MR. SYLVESTER: I asked about Mr. Larsen.

9 THE WITNESS: You asked Garlinghouse --

10 MR. DRYLEWSKI: There's no question
11 pending.

12 MS. ZORNBERG: All right. If I'm
13 mistaken, I'm mistaken.

14 MR. SYLVESTER: No, I want to make sure --
15 let me ask the witness.

16 Q. The last series of questions that I asked
17 you about post-Ripple communications, I had intended
18 to ask you about your communications with
19 Mr. Larsen.

20 Were you answering questions about
21 Mr. Larsen?

22 A. I answered your direct questions about
23 Chris Larsen. I also answered your direct questions
24 about Brad Garlinghouse.

25 But if you want to ask me an additional

1 question about Brad Garlinghouse, let's ask the
2 question.

3 Q. Let me ask -- I just want to make sure the
4 record is clear --

5 A. Sure.

6 Q. -- and I don't quite understand where the
7 confusion is, so I'm going to reask a question that
8 I believe I just asked you.

9 A. Okay.

10 Q. After you left Ripple, did you have any
11 communications whatsoever with Chris Larsen about
12 the SEC's litigation against Ripple?

13 MR. DRYLEWSKI: Objection to form.

14 THE WITNESS: My answer is still no.

15 BY MR. SYLVESTER:

16 Q. Okay. Since leaving Ripple, did you have
17 any communications with Mr. Larsen about XRP's
18 status as a security?

19 MR. DRYLEWSKI: Objection to form.

20 THE WITNESS: No.

21 BY MR. SYLVESTER:

22 Q. Okay.

23 I think we've established you have
24 communicated with Mr. Garlinghouse since you left
25 Ripple.

1 A. Yes.

2 Q. Have you met with him in person?

3 A. Yes.

4 Q. How many times?

5 A. I can't say for certain. But I have met
6 with him in person infrequently.

7 Q. Have you communicated with
8 Mr. Garlinghouse via phone since leaving Ripple?

9 A. Yes.

10 Q. Approximately how many times?

11 A. Couldn't say.

12 Q. Would you say that you have communicated
13 with him by phone infrequently?

14 MR. DRYLEWSKI: Objection to form.

15 THE WITNESS: I would say that's a fair
16 assessment, yeah.

17 BY MR. SYLVESTER:

18 Q. How about email; since leaving Ripple,
19 have you communicated with Mr. Larsen via email?

20 A. Yes.

21 Q. Have you communicated with
22 Mr. Garlinghouse via email more frequently than via
23 phone?

24 MS. ZORNBERG: Object to form.

25 THE WITNESS: I wouldn't say more or less,

1 but I have communicated with him via email.

2 BY MR. SYLVESTER:

3 Q. Okay.

4 Again, all types of communications, in
5 person, phone, email, since leaving Ripple, have you
6 ever communicated with Mr. Garlinghouse about the
7 SEC's litigation against Ripple?

8 MR. DRYLEWSKI: Objection to form.

9 THE WITNESS: No.

10 BY MR. SYLVESTER:

11 Q. Okay. Have you ever communicated with
12 Mr. Garlinghouse since leaving Ripple specifically
13 about the SEC's litigation against Mr. Garlinghouse?

14 MR. DRYLEWSKI: Objection to form.

15 THE WITNESS: No.

16 BY MR. SYLVESTER:

17 Q. And the same question for Mr. Larsen,
18 since leaving Ripple, have you ever communicated
19 with Mr. Larsen specifically about the SEC's
20 investigation -- sorry -- strike that.

21 Since leaving Ripple, have you
22 communicated with Mr. Larsen about the SEC's
23 litigation against Mr. Larsen?

24 MR. DRYLEWSKI: Objection to form.

25 THE WITNESS: No.

1 BY MR. SYLVESTER:

2 Q. Okay. Since leaving Ripple, have you
3 communicated with Mr. Garlinghouse about XRP's
4 status as a security?

5 MR. DRYLEWSKI: Objection to form.

6 THE WITNESS: No.

7 BY MR. SYLVESTER:

8 Q. Which other Ripple employees, if any, have
9 you kept in touch with since leaving Ripple?

10 A. Do you want the exhaustive list?

11 I'll give you generally.

12 Q. I'm interested in those with whom you've
13 communicated with, say, more than a couple times.

14 A. Okay. The leadership team members, some
15 of them. Patrick Griffin, Asheesh Birla, Monica
16 Long, [REDACTED]

17 [REDACTED] My friends. They were all my friends at
18 Ripple.

19 Q. Okay.

20 A. Others, I'm sure.

21 Q. Since leaving Ripple, have you
22 communicated with any of the people that you just
23 mentioned about the SEC's litigation against Ripple?

24 MR. DRYLEWSKI: Objection to form.

25 THE WITNESS: No.

1 BY MR. SYLVESTER:

2 Q. Since leaving Ripple, have you
3 communicated with any of the people that you just
4 mentioned about XRP status under the securities
5 laws?

6 MR. DRYLEWSKI: Objection to form.

7 THE WITNESS: I don't believe so.

8 BY MR. SYLVESTER:

9 Q. Have you discussed the SEC's litigation
10 against Ripple with anyone since you left Ripple?

11 MR. DRYLEWSKI: Objection to form.

12 THE WITNESS: No.

13 MR. DRYLEWSKI: Obviously exclude from
14 your answer any communications with anyone -- any
15 counsel, any lawyers.

16 THE WITNESS: Yeah. Okay.

17 Could you repeat the question, please?

18 BY MR. SYLVESTER:

19 Q. Sure.

20 Aside from conversations you may have had
21 with counsel, have you communicated with anyone
22 about the SEC's litigation against Ripple since you
23 left Ripple?

24 MR. DRYLEWSKI: Objection to form.

25 MS. ZORNBERG: Objection to form.

1 You keep saying since she left Ripple, but
2 the litigation you're referring to was
3 December 2020, and she left in 2018.

4 MR. SYLVESTER: Sure.

5 MS. ZORNBERG: Could you just be more
6 precise? Are you asking since the complaint was
7 filed in December 2020?

8 MR. SYLVESTER: Yes. I had assumed that
9 she knew about the SEC's investigation. She didn't.
10 So I'm only asking about the litigation --

11 MR. DRYLEWSKI: There's no question.

12 MR. SYLVESTER: -- which she may have
13 learned of it between December 2020 and today.

14 MS. ZORNBERG: Okay.

15 MR. DRYLEWSKI: Is that clear? Do you
16 understand?

17 THE WITNESS: Yeah. Since the lawsuit was
18 issued publicly, which is when I first became aware
19 of it. Is that what you're asking me?

20 BY MR. SYLVESTER:

21 Q. Now, I've lost the thread. Yes. Let me
22 ask you again.

23 MR. DRYLEWSKI: Let him ask the question.

24 MR. SYLVESTER: Okay.

25 THE WITNESS: Okay.

1 BY MR. SYLVESTER:

2 Q. Setting aside -- and I'm not asking about
3 any communications that you've had with counsel.

4 Since you left Ripple, have you
5 communicated with anyone about the SEC's litigation
6 against Ripple?

7 MR. DRYLEWSKI: Exclude from your answer
8 any communications with counsel.

9 MS. ZORNBERG: Object to form.

10 THE WITNESS: [REDACTED] who I -- with
11 whom I live.

12 BY MR. SYLVESTER:

13 Q. Okay. And what, if anything, have you
14 told [REDACTED] about the SEC's litigation against
15 Ripple?

16 MR. DRYLEWSKI: Objection to form.

17 MS. ZORNBERG: Just one moment.

18 I just want to make sure, I don't --
19 individual counsel can take it up. I don't know the
20 nature of the relationship, if there's any sort of
21 spousal privilege or, you know, common spousal
22 privilege, but just want to flag that.

23 MR. DRYLEWSKI: Maybe we can take a quick
24 break?

25 MR. TENREIRO: Let's move off of that.

1 Then we can come back after a break.

2 MR. DRYLEWSKI: That's fine.

3 BY MR. SYLVESTER:

4 Q. Okay. Is [REDACTED] the only person you
5 have communicated with about the SEC's litigation
6 against Ripple, apart from your counsel?

7 MR. DRYLEWSKI: Objection.

8 THE WITNESS: Apart from my counsel or --

9 BY MR. SYLVESTER:

10 Q. Apart from any counsel.

11 A. Yes, that would be correct.

12 Q. Okay. I'm asking the following as a
13 yes-or-no question.

14 While you were at -- strike that.

15 Still yes or no. While you were Ripple's
16 CCO, did you ever communicate with Ripple's counsel
17 about the application of the securities laws to XRP?

18 MR. DRYLEWSKI: Object to form.

19 Unless counsel tells me otherwise, you can
20 answer that "yes," "no," "I don't know," "I don't
21 recall."

22 MS. ZORNBERG: Agreed.

23 THE WITNESS: Yes.

24 BY MR. SYLVESTER:

25 Q. How many times?

1 MR. DRYLEWSKI: Same objection.

2 You can answer if you know, or you can say
3 "I don't know" or "I don't recall."

4 THE WITNESS: I don't know.

5 BY MR. SYLVESTER:

6 Q. Was it more than once?

7 A. I couldn't say.

8 Q. So just to be clear, throughout your
9 entire tenure as CCO of Ripple, we now know that
10 you've spoken with counsel at least once about the
11 application of the securities laws to XRP, but you
12 don't know sitting here today whether it was more
13 than once?

14 MR. DRYLEWSKI: Objection to form.

15 THE WITNESS: Did you ask me was it more
16 than once?

17 MR. SYLVESTER: Yes.

18 THE WITNESS: Oh, did you?

19 Sorry, I thought you asked me how many
20 times.

21 MS. ZORNBERG: Just so that we can make
22 progress and avoid any privilege issue, he's asking
23 you if you have any sense of the quantity of
24 times --

25 THE WITNESS: Of times.

1 MS. ZORNBERG: -- without getting into
2 substance, which he's not asking you about --

3 THE WITNESS: Yeah.

4 MS. ZORNBERG: -- and I think you can
5 answer that either with a number, if you know
6 specifically, or with a descriptor, like "a few,"
7 "many," "occasionally," "regularly." Like -- but
8 just keep it to --

9 THE WITNESS: Yeah.

10 MS. ZORNBERG: -- a quantity.

11 THE WITNESS: A quantity is as a number of
12 times. I cannot state how many times but a number
13 of times, yes.

14 BY MR. SYLVESTER:

15 Q. Would you say that you communicated on
16 this topic with counsel frequently?

17 MR. DRYLEWSKI: Objection to form.

18 THE WITNESS: Again, a number of times. I
19 don't know what you mean by "frequently," but I did
20 discuss with counsel.

21 BY MR. SYLVESTER:

22 Q. Would you say you communicated with
23 counsel on this topic regularly?

24 MR. DRYLEWSKI: Objection to form.

25 MS. ZORNBERG: Object to form. Asked and

1 answered.

2 BY MR. SYLVESTER:

3 Q. You can answer.

4 A. Asked and answered. I think I've told
5 you.

6 I can't tell you exactly how many times,
7 and I don't know if that was frequently or not.

8 Q. When did you first -- this is calling for
9 a time period.

10 A. Yeah.

11 Q. When did you first speak with Ripple's
12 counsel about the application of the securities laws
13 to XRP?

14 MR. DRYLEWSKI: You can answer that narrow
15 question in terms of the time period, if you know.
16 If you don't know --

17 BY MR. SYLVESTER:

18 Q. You can tell me a date, you can tell me a
19 year, you can tell me towards the start of Ripple,
20 towards the end of Ripple.

21 A. Mh-hmm.

22 I don't recall specifically.

23 Q. Was it near the start of your tenure at
24 Ripple?

25 A. I wouldn't say near the start, no.

1 Q. Was it near the start of your tenure as
2 CCO?

3 A. I wouldn't say near the start, no.

4 Q. Just so the record's clear, it's after the
5 tenure of your start as CCO?

6 MR. DRYLEWSKI: Objection to form.

7 THE WITNESS: That would be true, yes.

8 BY MR. SYLVESTER:

9 Q. Okay. Was it near the time that you left
10 Ripple?

11 MR. DRYLEWSKI: Objection to form.

12 THE WITNESS: It would be in advance of my
13 departure from Ripple.

14 BY MR. SYLVESTER:

15 Q. You left Ripple around May of 2018; is
16 that right?

17 A. That's correct.

18 Q. Did you first speak with counsel on this
19 issue in the first few months of 2018?

20 MR. DRYLEWSKI: Objection to form.

21 And just so we're clear on the record,
22 you're talking about the first time --

23 MR. SYLVESTER: Yes.

24 MR. DRYLEWSKI: -- or the last time?

25 MR. SYLVESTER: First.

1 MR. DRYLEWSKI: Is that clear to you?

2 THE WITNESS: So the first time --

3 MR. DRYLEWSKI: And, again, don't divulge
4 any substance. We're just talking about time
5 periods here to the extent you remember.

6 THE WITNESS: Yeah.

7 The question was, did I first speak with
8 legal about this matter in 2018?

9 BY MR. SYLVESTER:

10 Q. Yes, defining "this matter" as a
11 conversation about the application of securities
12 laws to XRP.

13 A. In 2018?

14 It would have been prior to that.

15 Q. Okay. Again, without getting into any
16 substantive communications, which lawyers did you
17 speak with on the topic of the application of the
18 securities laws to XRP while you were at Ripple?

19 MR. DRYLEWSKI: Just for the record, I'm
20 going to make sure to instruct you, do not divulge
21 the substance of any communications with any
22 lawyers. Subject to company counsel's advice, you
23 can name the individuals in legal with whom you
24 spoke, to the extent you remember.

25 THE WITNESS: Mh-hmm.

1 MS. ZORNBERG: Agreed.

2 BY MR. SYLVESTER:

3 Q. Go ahead.

4 A. [REDACTED] in -- when I started,
5 2015, 2016. [REDACTED] after [REDACTED]
6 departure. I may have spoken with [REDACTED]
7 [REDACTED] and I believe I also spoke with outside
8 counsel.

9 Do you want me to name the firm?

10 Q. This is while you were at Ripple?

11 A. Yeah.

12 Q. Okay. Yes, please.

13 A. [REDACTED]

14 Q. While you were at Ripple, did you speak
15 with any other outside counsel on this matter?

16 MS. ZORNBERG: About any --

17 MR. SYLVESTER: Sorry. And you're right.

18 Q. While you were at Ripple, did you speak
19 with any other outside counsel about the application
20 of the securities laws to XRP?

21 MR. DRYLEWSKI: You can answer that
22 question with a "yes," "no," "I don't know," "I
23 don't remember."

24 THE WITNESS: So just to be clear, you
25 mean any Ripple outside counsel? What do you mean

1 specifically?

2 I presume you mean company outside
3 counsel.

4 BY MR. SYLVESTER:

5 Q. I do mean Ripple's outside counsel, yes.

6 A. No.

7 Q. Okay. While you were at Ripple, did you
8 speak with any personal counsel about the
9 application of the securities laws to XRP?

10 MR. DRYLEWSKI: Same instruction.

11 THE WITNESS: No.

12 BY MR. SYLVESTER:

13 Q. Okay. You said that you spoke with
14 Mr. [REDACTED] on the topic that we're discussing.

15 When was Mr. [REDACTED] general counsel at
16 Ripple?

17 A. As of February 2nd, 2015.

18 Q. Then Mr. [REDACTED] eventually departed that
19 position?

20 A. He did.

21 Q. When?

22 A. Sometime in 2016. I don't know the exact
23 date.

24 Q. While Mr. [REDACTED] was general counsel, did
25 you discuss with him the application of the

1 securities laws to XRP?

2 MR. DRYLEWSKI: Objection to form.

3 I'm going to ask you to exclude from your
4 answer the substance of any communications you may
5 have had with Mr. [REDACTED] or any other lawyers at
6 Ripple.

7 THE WITNESS: Okay.

8 So the question was, did I have
9 discussions with Mr. [REDACTED] on the application of
10 securities laws?

11 BY MR. SYLVESTER:

12 Q. While he was general counsel.

13 A. Yes.

14 Q. While Mr. [REDACTED] was general counsel of
15 Ripple, did you have more than one conversation with
16 him about the application of the securities laws to
17 XRP?

18 MR. DRYLEWSKI: Same instruction to you.
19 You can answer "yes," "no," "I don't know," "I don't
20 recall."

21 THE WITNESS: Okay. Yes.

22 BY MR. SYLVESTER:

23 Q. Turning to the time that Ms. [REDACTED] was
24 general counsel, about how many conversations did
25 you have with Ms. [REDACTED] about the application of the

1 securities laws to XRP?

2 MR. DRYLEWSKI: Objection to form.

3 You can answer that question if you recall
4 and only that question.

5 THE WITNESS: Yeah, I honestly can't
6 recall.

7 BY MR. SYLVESTER:

8 Q. More than one?

9 A. There would have been more than one, yes.

10 Q. Did Ms. [REDACTED] report to Ms. [REDACTED]?

11 A. She did.

12 Q. About how many conversations did you have
13 with Ms. [REDACTED] about the application of the
14 securities laws to XRP?

15 MR. DRYLEWSKI: Same instruction.

16 THE WITNESS: I honestly couldn't say.

17 BY MR. SYLVESTER:

18 Q. Because you don't remember?

19 A. Yeah. We had -- we had many
20 conversations, yeah.

21 Q. About how many conversations did you have
22 with [REDACTED] about the application of the
23 securities laws to XRP?

24 MR. DRYLEWSKI: Same instruction. You can
25 answer just that question, if you know.

1 THE WITNESS: One.

2 BY MR. SYLVESTER:

3 Q. When did you speak with [REDACTED]?

4 MR. DRYLEWSKI: Same instruction. You can
5 answer that question if you recall.

6 THE WITNESS: In 2018, sometime prior to
7 my departure.

8 BY MR. SYLVESTER:

9 Q. Did you initiate the contact with [REDACTED]
10 [REDACTED]

11 MR. DRYLEWSKI: Objection to form.

12 You can answer that question with a "yes,"
13 "no," "I don't know," "I don't recall," subject to
14 company counsel.

15 MS. ZORNBERG: Any -- the "you" there
16 is --

17 MR. SYLVESTER: Ms. O'Gorman.

18 MS. ZORNBERG: -- Ms. O'Gorman
19 individually.

20 Did you individually initiate the
21 conversation with [REDACTED] yes or no, or I don't
22 remember.

23 THE WITNESS: Yeah.

24 No.

25 / /

1 BY MR. SYLVESTER:

2 Q. Do you know who did?

3 A. I could hazard a guess, an educated guess,
4 but I don't know.

5 Q. Okay.

6 MR. DRYLEWSKI: The question was, do you
7 know who.

8 MR. SYLVESTER: Yeah. I don't want her to
9 guess. If she knows, she knows. If she doesn't,
10 that's okay.

11 THE WITNESS: Exactly. I don't know.

12 BY MR. SYLVESTER:

13 Q. Okay. Setting aside any lawyers, whether
14 inside or outside counsel, while you were Ripple's
15 CCO, did you ever communicate with anyone at Ripple
16 regarding the application of the securities laws to
17 XRP?

18 MR. DRYLEWSKI: You can answer that
19 question "yes," "no," "I don't know," "I don't
20 recall."

21 And objection to form.

22 MS. ZORNBERG: Can I just clarify, too?

23 You're asking her if she spoke with any
24 nonlawyers at Ripple?

25 MR. SYLVESTER: That's right.

1 MS. ZORNBERG: About that subject?

2 Okay. You can answer -- you can answer
3 "yes" or "no" or "I don't recall." Yeah.

4 THE WITNESS: Yes.

5 BY MR. SYLVESTER:

6 Q. Who?

7 MR. DRYLEWSKI: Without divulging the
8 substance of any communications, conversations, you
9 can answer the question that was posed, if you know.

10 THE WITNESS: I don't think I can answer
11 that question without divulging with respect to a
12 lawyer being present during those conversations. I
13 don't think I can answer.

14 BY MR. SYLVESTER:

15 Q. Okay. Let me ask a different question.

16 A. Okay.

17 Q. Outside the presence of counsel, so you're
18 not talking to a lawyer --

19 A. Yeah.

20 Q. -- and a lawyer isn't there --

21 A. Yeah.

22 Q. -- did you have any conversations with
23 anyone at Ripple about the application of the
24 securities laws to XRP while you were Ripple's CCO?

25 MR. DRYLEWSKI: Objection to form.

1 And you can answer that narrow question
2 that was asked, if you can.

3 THE WITNESS: I would have to say I don't
4 recall.

5 BY MR. SYLVESTER:

6 Q. Okay. Other than conversations you had
7 with counsel and other than in meetings when counsel
8 was present --

9 A. Yes.

10 Q. -- during the time you were Ripple's CCO,
11 did you ever discuss with anyone at Ripple the
12 prospect of reaching out to the SEC regarding the
13 application of the securities laws to XRP?

14 MR. DRYLEWSKI: I'm going to instruct you
15 not to divulge the substance of any communications
16 you had with Ripple's lawyers, inside or out, or
17 any -- the substance of any conversations that were
18 conveyed to you that you understand may have
19 included substance of communications with Ripple's
20 lawyers. You can answer the question "yes," "no,"
21 "I don't know," "I don't recall."

22 THE WITNESS: I would have to say it
23 involved legal, so I cannot respond.

24 BY MR. SYLVESTER:

25 Q. Let me create a record.

1 Were there -- I'm just asking if these
2 conversations existed.

3 A. Sure.

4 MR. SYLVESTER: So you don't have to
5 instruct her not to answer anything farther than
6 that. I want to see if there's anything within your
7 bucket of objections.

8 Q. So were there conversations that took
9 place between you and others at Ripple who were not
10 lawyers and outside the presence of counsel about
11 the topic of the application of the securities laws
12 to XRP, yes, no?

13 A. Yes.

14 MR. DRYLEWSKI: You can answer "yes,"
15 "no," "I don't know," "I don't recall."

16 THE WITNESS: Yes.

17 BY MR. SYLVESTER:

18 Q. Okay. And is the reason why you're not --
19 so who -- sorry, let me -- strike that.

20 Who?

21 A. It would have been various parties at
22 Ripple.

23 Q. Mr. Garlinghouse?

24 A. Yes.

25 Q. Mr. Larsen?

1 A. Yes.

2 MS. ZORNBERG: Object to form.

3 BY MR. SYLVESTER:

4 Q. Did you understand the question?

5 A. With whom did I speak about this --

6 Q. Yes.

7 A. -- outside of counsel being present at any
8 time or in any meetings?

9 Q. Yes.

10 A. Was that the question?

11 Q. Yes.

12 A. Okay.

13 Q. Okay. About how many times did you speak
14 with Mr. Garlinghouse outside the presence of
15 counsel about the topic of the application of the
16 securities laws to XRP while you were Ripple's CCO?

17 MR. DRYLEWSKI: Objection to form.

18 THE WITNESS: I honestly don't recall.

19 BY MR. SYLVESTER:

20 Q. Approximately when was the first time you
21 had a conversation of this nature with
22 Mr. Garlinghouse?

23 MR. DRYLEWSKI: Objection to form.

24 THE WITNESS: I don't recall.

25 / /

1 BY MR. SYLVESTER:

2 Q. Was it earlier than 2018?

3 MR. DRYLEWSKI: Objection to form.

4 THE WITNESS: Yes.

5 BY MR. SYLVESTER:

6 Q. Was it as early as 2015?

7 MR. DRYLEWSKI: Same objection.

8 THE WITNESS: I don't recall.

9 BY MR. SYLVESTER:

10 Q. Is it fair to say that it could have been
11 as early as 2015, but you don't recall sitting here
12 today?

13 MR. DRYLEWSKI: Objection to form.

14 MS. ZORNBERG: Yeah.

15 MR. DRYLEWSKI: Asked and answered.

16 She said she doesn't recall.

17 MS. ZORNBERG: Yeah. You're asking her to
18 speculate.

19 BY MR. SYLVESTER:

20 Q. You can answer, if you can.

21 A. I can't. I really don't recall.

22 Q. When was the first time that you talked to
23 Mr. Larsen outside the presence of counsel about the
24 application of the securities laws to XRP?

25 MR. DRYLEWSKI: Objection to form.

1 THE WITNESS: To the best of my
2 recollection, it would have been in December 2016,
3 January 2017.

4 BY MR. SYLVESTER:

5 Q. What, if anything, sparks your
6 recollection that that is the time frame that you
7 spoke to Mr. Larsen about this issue?

8 MR. DRYLEWSKI: Objection to form.

9 I'm instructing the witness not to answer
10 to the extent that it divulges the substance of any
11 communications that you had with Ripple's lawyers,
12 inside or outside counsel.

13 THE WITNESS: Mh-hmm.

14 MR. DRYLEWSKI: Okay.

15 THE WITNESS: The impetus was an article
16 or a publication by [REDACTED] issued, I believe,
17 in December 2016.

18 BY MR. SYLVESTER:

19 Q. About how many times did you speak with
20 Mr. Larsen outside the presence of counsel about the
21 application of the securities laws to XRP?

22 MR. DRYLEWSKI: Objection to form.

23 THE WITNESS: I couldn't say exactly.

24 BY MR. SYLVESTER:

25 Q. Is that because you don't remember?

1 A. Yeah, I don't.

2 Q. Was it more than once?

3 A. Yes.

4 Q. Okay. Other than Mr. Garlinghouse and
5 Mr. Larsen, who, if anyone, at Ripple did you speak
6 with outside the presence of counsel about the
7 application of the securities laws to XRP?

8 MR. DRYLEWSKI: Objection to form.

9 You can answer that question if you know.

10 THE WITNESS: I don't know. I don't know.

11 BY MR. SYLVESTER:

12 Q. Do you recall having any such
13 conversations?

14 MR. DRYLEWSKI: Same objection.

15 THE WITNESS: I recall, but I believe
16 legal was present.

17 BY MR. SYLVESTER:

18 Q. I see.

19 Okay. Focusing first on conversations
20 that you had with Mr. Larsen outside the presence of
21 counsel on the topic of the application of the
22 securities laws to XRP, is it your understanding
23 that everything that Mr. Larsen said to you in those
24 conversations on that topic was conveyed to him by a
25 lawyer?

1 MR. DRYLEWSKI: Object to form.

2 MS. ZORNBERG: Objection. Yeah.

3 THE WITNESS: I have no idea.

4 MR. DRYLEWSKI: Just hold on.

5 MR. SYLVESTER: I'm just trying to
6 understand the privilege objection.

7 MS. ZORNBERG: I understand. There was
8 already colloquy about this in the transcript
9 where --

10 MR. SYLVESTER: Right.

11 MS. ZORNBERG: -- Ms. O'Gorman says she
12 did not know to what extent Mr. Larsen's statements
13 were informed by counsel. And then --

14 MR. SYLVESTER: I thought we were taking
15 it on a question-by-question basis. So for this
16 particular question --

17 MS. ZORNBERG: We are.

18 Ask the question again. Let's see if we
19 can get through it.

20 MR. SYLVESTER: Okay.

21 Q. Focusing first on conversations that you
22 had with Mr. Larsen outside the presence of counsel
23 on the topic of application of the securities laws
24 to XRP, is it your understanding that everything
25 that Mr. Larsen said to you in those conversations

1 on that topic was conveyed to him by a lawyer?

2 MS. ZORNBERG: Yeah. Objection.

3 If you want to take it question by
4 question, I'll just make a suggestion.

5 The witness has already testified about
6 what she can recall of one conversation with
7 Mr. Larsen. And that's -- and she's given you --

8 MR. SYLVESTER: More than one.

9 MS. ZORNBERG: No. She previously
10 testified about one conversation with Mr. Larsen
11 related to the [REDACTED] article.

12 MR. SYLVESTER: Yes.

13 MS. ZORNBERG: She's given you the extent
14 of her recollection on that. You know, that's --
15 I'm proffering that, and she will correct or counsel
16 will correct.

17 But my understanding, she's given you the
18 extent of her recollection. If you want to do it
19 question by question, perhaps ask her if she recalls
20 specifically any other communications, and then we
21 can deal with it.

22 MR. SYLVESTER: Okay. Sure. Fair enough.

23 So what I've heard from the witness -- and
24 correct me if you heard something different -- is
25 that she said at least more than one conversation

1 with Mr. Larsen on this topic.

2 We have discussed one conversation about
3 the [REDACTED] report.

4 Q. Are we on the same page, Ms. O'Gorman?

5 A. We are, yes.

6 Q. Okay. Great.

7 So we don't know because you don't
8 remember, I believe, how many other conversations
9 you had with Mr. Larsen on this topic; is that
10 right?

11 A. That's correct.

12 Q. Okay. So it's a little difficult to ask a
13 question about a specific conversation, but -- so
14 I'm just going to have to ask categorically.

15 So categorically, setting aside the [REDACTED]
16 [REDACTED] conversation -- do you know what I mean by
17 the "[REDACTED] conversation"?

18 A. I do. You mean the article published,
19 yes.

20 Q. That's exactly right.

21 Setting aside that conversation with
22 Mr. Larsen, setting aside any conversation with
23 Mr. Larsen where counsel was present, is it your
24 understanding that everything Mr. Larsen told you on
25 the topic of the application of the securities laws

1 to XRP was relayed to him by counsel?

2 MR. DRYLEWSKI: Objection to form.

3 THE WITNESS: I could not say. I do not
4 know.

5 BY MR. SYLVESTER:

6 Q. Okay. Great.

7 I'm going to ask the same questions about
8 Mr. Garlinghouse.

9 A. Sure. Sure.

10 Q. Okay. So for Mr. Garlinghouse, is there
11 anything like the [REDACTED] report, like a
12 specific publication that you read that you
13 discussed with Mr. Garlinghouse that you can recall?

14 MR. DRYLEWSKI: Objection to form.

15 BY MR. SYLVESTER:

16 Q. Do you understand my question?

17 A. I do.

18 Q. Okay.

19 MR. DRYLEWSKI: Bless you.

20 THE WITNESS: Yes.

21 BY MR. SYLVESTER:

22 Q. Okay. What was that publication or those
23 publications?

24 A. It would have been anything that was
25 issued or publicly available on the SEC website or

1 enforcement actions taken by the SEC or anything
2 discussed by the SEC publicly that I was aware of.

3 Q. How did you learn about what the SEC said
4 on its website?

5 A. Internet articles, published cases.

6 Q. Let me ask a better question.

7 A. Okay.

8 Q. Did you personally visit the SEC's
9 website?

10 A. Yes.

11 Q. How frequently?

12 MR. DRYLEWSKI: Objection to form.

13 Anytime?

14 BY MR. SYLVESTER:

15 Q. While you were CCO.

16 A. On a number of occasions. I can't say how
17 many.

18 Q. Did you make it a practice to visit the
19 SEC's website regularly while you were CCO?

20 MR. DRYLEWSKI: Objection to form.

21 THE WITNESS: Well, it depends on how you
22 categorize "regularly," but I visited their website.

23 BY MR. SYLVESTER:

24 Q. Would you say you visited the SEC's
25 website while you were CCO at least once every few

1 months?

2 MS. ZORNBERG: Object to form.

3 You can answer, if you know.

4 THE WITNESS: Okay. I would say that's
5 true, particularly in later days.

6 BY MR. SYLVESTER:

7 Q. Will you tell me what you mean by "later
8 days"?

9 A. Later days during my tenure at Ripple, the
10 ICO matter with the SEC I was heavily involved in
11 and something that I was interested in.

12 Q. I'm sorry, when you say the "ICO matter,"
13 what do you mean?

14 A. Initial coin offerings.

15 Q. Oh, sure. I meant, was it a specific
16 initial coin offering matter or number of
17 enforcement actions?

18 I'm just trying to understand what you
19 mean.

20 A. Oh, sorry.

21 MR. DRYLEWSKI: Objection to form.

22 Just give me a moment to interject.

23 And I am going to instruct you that to the
24 extent your answer is informed by or would divulge
25 any communications you had with Ripple's lawyers, to

1 exclude that from your answer. Do not communicate
2 them.

3 BY MR. SYLVESTER:

4 Q. Just for clarity --

5 A. Yeah.

6 Q. -- the question doesn't call for that.

7 So we're talking about just you looking at
8 the SEC's website.

9 A. Sure.

10 Q. Okay.

11 MR. DRYLEWSKI: I'm just making the record
12 clear.

13 MS. ZORNBERG: No, no, no, I disagree.
14 The latest colloquy was asking her about what ICO
15 matters she was interested in --

16 MR. DRYLEWSKI: Correct.

17 MS. ZORNBERG: -- and so we would also
18 direct the witness, you can answer to the extent
19 you're not revealing communications with counsel.

20 THE WITNESS: I would say it's very much
21 intertwined with the legal department, what I
22 reviewed at that time.

23 BY MR. SYLVESTER:

24 Q. Okay. Did anyone in legal -- I'm just
25 trying to understand.

1 A. Yeah.

2 Q. Did anyone in legal ever direct you to
3 read the SEC's website?

4 MR. DRYLEWSKI: I'm going to instruct the
5 witness not to answer that question.

6 THE WITNESS: No.

7 MR. DRYLEWSKI: Excuse me. I instructed
8 you not to answer.

9 THE WITNESS: Oh, did you?

10 MR. DRYLEWSKI: That's fine. The
11 answer -- that's -- that calls for privileged
12 information.

13 BY MR. SYLVESTER:

14 Q. Okay. Were there occasions where you
15 visited the SEC's website on your own initiative?

16 MR. DRYLEWSKI: You can answer that
17 question "yes," "no," "I don't know," "I don't
18 recall."

19 THE WITNESS: Yes.

20 BY MR. SYLVESTER:

21 Q. Okay. Were certain of those occasions
22 that we just spoke about for your last answer
23 related to ICO matters?

24 MR. DRYLEWSKI: Objection to form.

25 THE WITNESS: Yes.

1 BY MR. SYLVESTER:

2 Q. Okay. What do you recall learning on
3 those occasions about ICO matters?

4 MR. DRYLEWSKI: Objection to form.

5 THE WITNESS: That's a huge question.

6 BY MR. SYLVESTER:

7 Q. Anything that you can recall from your own
8 visits to the SEC's website on your initiative.

9 MR. DRYLEWSKI: And I just want to make
10 the record clear here that in giving your answer to
11 this question, you need to separate out, if there
12 were any communications that you had with Ripple's
13 counsel that aided in your understanding of any of
14 this, to exclude that from your answer and not to
15 divulge it.

16 Do you understand?

17 THE WITNESS: I do. I do understand.

18 MR. DRYLEWSKI: If you can separate that
19 out -- if it exists and you can separate it out, you
20 can answer that question. If you can't separate it
21 out, then I'd instruct you not to answer.

22 THE WITNESS: Yeah, I cannot separate
23 that. I'm sorry.

24 BY MR. SYLVESTER:

25 Q. Just so that I'm clear, you're not able to

1 separate what you learned from visiting the SEC's
2 website on your own initiative from what you learned
3 from counsel on the topic of ICOs?

4 A. Yeah, I cannot do that.

5 Q. Is there any topic that you can recall
6 learning from visits to the SEC website on your own
7 initiative?

8 MR. DRYLEWSKI: Objection to form.

9 THE WITNESS: None that I can talk about
10 without pulling legal into the discussion.

11 BY MR. SYLVESTER:

12 Q. Okay. One of the things that you
13 mentioned earlier was enforcement actions.

14 Did you learn of SEC enforcement
15 actions -- well, strike that.

16 How did you learn of SEC enforcement
17 actions?

18 MS. ZORNBERG: State an objection. I
19 think, Mr. Sylvester, you used the term "ICO
20 enforcement action." I could be mistaken, but --

21 MR. SYLVESTER: I think it's the mask, SEC
22 enforcement actions.

23 MS. ZORNBERG: Yeah. I'm just not sure if
24 that's the witness who used that term or if you used
25 that term in a question. But just put the question.

1 MR. SYLVESTER: Sure. Sure. I thought it
2 was her.

3 Q. Do you understand my question?

4 A. Can you repeat it?

5 Q. That's a great idea. Okay.

6 Do you have an understanding of what an
7 SEC enforcement action is?

8 A. I do.

9 Q. Okay. Did you learn of any SEC
10 enforcement actions on any of the visits to the
11 SEC's website that you made on your own initiative?

12 A. Yes.

13 Q. Which actions were those.

14 A. The DAO, the DAO matter, which also was a
15 reinforcement action. The Kick matter, just as
16 examples.

17 Q. Are there any other enforcement actions
18 that you learned of from your visit to the SEC's
19 website on your own initiative other than the two
20 you just told me?

21 MR. DRYLEWSKI: Objection to form.

22 This is any time, Mark?

23 BY MR. SYLVESTER:

24 Q. While you were CCO.

25 A. On any topic ever.

1 Q. That's a great question.

2 Just SEC enforcement actions relevant to
3 digital assets.

4 MR. DRYLEWSKI: Objection to form.

5 THE WITNESS: I've given those two
6 examples. I really can't recall others.

7 BY MR. SYLVESTER:

8 Q. The DAO report --

9 MR. DRYLEWSKI: D-A-O.

10 THE WITNESS: D-A-O. Sorry, D-A-O.

11 BY MR. SYLVESTER:

12 Q. The DAO report came out in July 2017; is
13 that right?

14 A. That's my understanding, to the best of my
15 recollection, yes.

16 Q. Did you read the DAO report when it came
17 out?

18 A. Yes.

19 Q. What, if any, steps did you take as CCO
20 after you read the DAO report?

21 MR. DRYLEWSKI: Objection to form.

22 And I'm going to instruct you not to
23 answer to the extent that it calls for divulging the
24 substance of any communications with Ripple lawyers
25 or any direction by Ripple's lawyers, inside or

1 outside counsel.

2 Do you understand?

3 THE WITNESS: I do. I do.

4 It involved legal, so I don't believe I
5 can answer that.

6 BY MR. SYLVESTER:

7 Q. Apart from any involvement of Ripple's
8 lawyers, you did not take any steps as CCO after you
9 read the DAO report; is that right?

10 MR. DRYLEWSKI: Object to form.

11 And the instruction was any steps taken at
12 the direction of Ripple's lawyers.

13 THE WITNESS: Any steps taken by me at the
14 direction of Ripple's lawyers, outside or inside?

15 MR. DRYLEWSKI: He's asking you whether or
16 not you took any steps outside of communications
17 with Ripple's lawyers and outside of any steps that
18 you took at the direction of Ripple's lawyers.

19 And if it's intertwined, like we've been
20 talking about --

21 THE WITNESS: It is.

22 MR. DRYLEWSKI: -- steps that you took may
23 have been at the direction or arguably, in your
24 mind, in the direction of Ripple's lawyers --

25 THE WITNESS: Sure.

1 MR. DRYLEWSKI: -- don't answer and don't
2 convey the substance of that --

3 THE WITNESS: Yeah.

4 MR. DRYLEWSKI: -- and we can discuss.

5 THE WITNESS: Yeah. And I think I will --
6 the same answer as previously, it was intertwined
7 with legal, so ...

8 BY MR. SYLVESTER:

9 Q. Okay. I just want to make sure I
10 understand.

11 I don't want to hear anything that a
12 lawyer told you.

13 A. Yeah.

14 Q. After reading the DAO report, did you take
15 any steps?

16 MR. DRYLEWSKI: You can answer that
17 question "yes," "no," "I don't know," "I don't
18 recall."

19 THE WITNESS: Well, I don't recall, I
20 think, is probably -- is the -- yeah. I don't
21 recall.

22 BY MR. SYLVESTER:

23 Q. Okay. Just a yes-or-no question.

24 Did you discuss the topic of the DAO
25 report with any counsel at Ripple?

1 MR. DRYLEWSKI: So you can answer that
2 question with a "yes," a "no," "I don't know," "I
3 don't recall."

4 THE WITNESS: Yes.

5 BY MR. SYLVESTER:

6 Q. Who?

7 MR. DRYLEWSKI: You can answer that
8 question and you cannot divulge the substance of any
9 communications.

10 THE WITNESS: Oh, sure. Sure. Sure.
11 Sure.

12 Who in the Ripple legal department --

13 BY MR. SYLVESTER:

14 Q. That's right.

15 A. -- is that what you're asking me?

16 [REDACTED] and [REDACTED].

17 Q. Did you have more than one conversation
18 with anyone in the Ripple legal department about the
19 DAO report?

20 A. Yes.

21 Q. About how many conversations did you have
22 with Ripple legal about the DAO report?

23 A. I couldn't say.

24 Q. Is that because you don't remember?

25 A. I don't remember.

1 Q. Setting aside any conversations where any
2 lawyer was present, did you have any conversations
3 with Mr. Garlinghouse about the DAO report?

4 MR. DRYLEWSKI: You can answer that
5 question "yes," "no," "I don't recall," "I don't
6 know."

7 THE WITNESS: Yes.

8 BY MR. SYLVESTER:

9 Q. How many conversations did you have with
10 Mr. Garlinghouse about the DAO report?

11 A. I don't know. Honestly, don't recall.

12 Q. Was it more than one?

13 A. It may have been. I don't recall.

14 Q. What did you tell Mr. Garlinghouse about
15 the DAO report?

16 MR. DRYLEWSKI: I'm going to object to
17 form.

18 And I'm going to instruct you not to
19 answer to the extent that what you said to
20 Mr. Garlinghouse was at the direction of Ripple's
21 lawyers or conveyed the substance of any
22 communications that you had with Ripple's lawyers,
23 inside or outside counsel.

24 MS. ZORNBERG: Yeah, I would add to that
25 that I'd direct you not to answer if what you

1 communicated was informed by what you had discussed
2 with Ripple's lawyers.

3 THE WITNESS: To be honest with you, the
4 bottom line is I don't remember.

5 BY MR. SYLVESTER:

6 Q. What did Mr. Garlinghouse tell you about
7 the DAO report?

8 MR. DRYLEWSKI: I'm going to object to
9 form.

10 And I'm going to instruct you not to
11 divulge the substance of anything that
12 Mr. Garlinghouse told you to the extent that you
13 understand it was informed by or reflected by
14 communications that Mr. Garlinghouse may have had
15 with Ripple's lawyers, inside or outside counsel.

16 Do you understand?

17 THE WITNESS: I do. I do.

18 I decline to answer in that case. I don't
19 know.

20 BY MR. SYLVESTER:

21 Q. I just want to clarify your answer because
22 you said, "I decline to answer" and "I don't know."

23 Is it that you did have such discussions
24 with Mr. Garlinghouse, he did say something, but
25 you're following your counsel's instruction not to

1 answer the question; is that right?

2 MR. DRYLEWSKI: You can answer that "yes"
3 or "no."

4 THE WITNESS: Okay.

5 MR. DRYLEWSKI: You can answer that
6 question, are you saying you don't know or are you
7 declining to answer based on the instruction you
8 were just given?

9 MR. SOLOMON: And, sorry, it was a
10 compound question. You asked three questions. Can
11 you just break it down and ask specific questions?

12 You put "discussions," plural. Just ask
13 her simple, noncompound questions, please, so we can
14 get a clean record.

15 BY MR. SYLVESTER:

16 Q. You talked to Mr. Garlinghouse about the
17 DAO report?

18 A. I did.

19 Q. Mr. Garlinghouse said something to you in
20 that conversation about the DAO report?

21 A. That would be true, yeah.

22 Q. I understand -- wait -- strike that.

23 Do you remember what he said?

24 A. I don't.

25 MR. DRYLEWSKI: You can answer that --

1 THE WITNESS: I don't know.

2 MR. DRYLEWSKI: -- "yes," "no" or "I don't
3 know."

4 THE WITNESS: I don't.

5 BY MR. SYLVESTER:

6 Q. Okay.

7 Did you talk to Mr. Larsen about the DAO
8 report?

9 A. I did.

10 Q. Okay. Do you recall what you told
11 Mr. Larsen?

12 MR. DRYLEWSKI: You can answer that
13 question "yes," "no," "I don't recall."

14 THE WITNESS: I don't recall, honestly.

15 BY MR. SYLVESTER:

16 Q. Do you recall what Mr. Larsen told you
17 about the DAO report?

18 MR. DRYLEWSKI: You can answer that
19 question "yes," "no," "I don't recall."

20 THE WITNESS: I don't recall.

21 BY MR. SYLVESTER:

22 Q. This conversation with Mr. Larsen about
23 the DAO report, was it around the time the DAO
24 report came out?

25 A. Yes.

1 Q. And the conversation that you had with
2 Mr. Garlinghouse about the DAO report, was that also
3 around the time the DAO report came out?

4 A. Yes.

5 Q. Great.

6 Other than counsel, Mr. Larsen and
7 Mr. Garlinghouse, did you talk to anyone else at
8 Ripple about the DAO report?

9 A. I may have. We -- I may have.

10 Q. Sitting here today, can you remember any
11 such conversations?

12 MR. DRYLEWSKI: It's a yes, no, I don't
13 know or I don't recall answer.

14 THE WITNESS: I don't know.

15 BY MR. SYLVESTER:

16 Q. While you were Ripple's CCO, did you ever
17 communicate with anyone outside of Ripple regarding
18 the application of the securities laws to XRP?

19 MR. DRYLEWSKI: Objection to form.

20 THE WITNESS: I hope not. It would have
21 been a very boring conversation, but the answer is
22 that I don't believe so, no.

23 MR. SYLVESTER: Let's look at Exhibit 2.

24 (Whereupon, Deposition Exhibit AO-2

25 was marked for identification.)

1 BY MR. SYLVESTER:

2 Q. Ms. O'Gorman, I'll ask you to take a
3 minute to look at this email.

4 But for the record, the top email is from
5 Mr. Garlinghouse to Ms. Long, July 19th, 2018.

6 Couple emails down is your email from --
7 from yourself to Mr. Garlinghouse on July 19th,
8 2018.

9 Do you see that?

10 MR. DRYLEWSKI: Take your time and feel
11 free to review the entire document before answering
12 any questions about it.

13 THE WITNESS: Thank you.

14 BY MR. SYLVESTER:

15 Q. And, Ms. O'Gorman, just let me know when
16 you're ready to answer questions, okay?

17 A. Sure.

18 Q. Okay. Ms. O'Gorman, you've taken a few
19 minutes to review the document. Are you ready to
20 answer questions?

21 A. I am.

22 Q. Great.

23 The first question is, do you recall
24 sending this email to Mr. Garlinghouse in July of
25 2018?

1 A. I do.

2 MS. ZORNBERG: Objection to form.

3 There are at least four emails in the
4 document.

5 BY MR. SYLVESTER:

6 Q. There's an email -- Ms. O'Gorman, do you
7 see on page 1 of AO2 an email that you sent to
8 Mr. Garlinghouse on July 19th, 2018?

9 A. I do.

10 Q. Okay. And as I mentioned, you took a few
11 minutes to read the document.

12 Is it fair to say that in your email to
13 Mr. Garlinghouse, you were taking issue with a few
14 items of his public statement?

15 MR. DRYLEWSKI: Objection to form.

16 THE WITNESS: I wouldn't say I was taking
17 issue, but I was commenting.

18 BY MR. SYLVESTER:

19 Q. At the very bottom of the first page of
20 AO2, you write about the section in
21 Mr. Garlinghouse's email about global regulatory
22 progress.

23 Do you see that?

24 A. I do.

25 Q. Okay. One of the things that you write

1 about is Mr. Garlinghouse's inclusion of a link to a
2 particular article.

3 Do you see that?

4 A. I do.

5 Q. Okay. And that article, according to your
6 email, cites some random dude who looks all of about
7 16 years old and who apparently is convinced that if
8 FinCEN says XRP is a currency, then that's the end
9 of the securities argument.

10 Is that right?

11 MR. DRYLEWSKI: Object to form.

12 THE WITNESS: That's what I stated, yes.

13 BY MR. SYLVESTER:

14 Q. After that you sentence, you write:

15 "It's just ridiculous."

16 Do you see that?

17 A. I do.

18 Q. Do you think that it's ridiculous to
19 assert that if FinCEN says XRP is a currency, then
20 that's the end of the securities argument?

21 MR. DRYLEWSKI: Objection to form. Calls
22 for a legal conclusion.

23 THE WITNESS: Yes, I'm not lawyer, but in
24 my opinion, it was very narrow minded.

25 / /

1 BY MR. SYLVESTER:

2 Q. Even ridiculous?

3 MR. DRYLEWSKI: Objection. Same
4 objection.

5 THE WITNESS: That's -- that's what I
6 said.

7 BY MR. SYLVESTER:

8 Q. Prior to this July 2018 email, had you
9 ever expressed your opinion to anyone at Ripple that
10 this argument was ridiculous?

11 MR. DRYLEWSKI: Object to form.

12 And I'm going to instruct you not to
13 answer to the extent it divulges the substance of
14 any communications you had with Ripple's lawyers,
15 inside or outside counsel.

16 THE WITNESS: I think the term
17 "ridiculous" is something I used in this particular
18 email, so I wouldn't have counted it as ridiculous
19 to anyone other -- at any other time, possibly.

20 But if your question is -- what is your
21 question specifically?

22 BY MR. SYLVESTER:

23 Q. Let's use the words that you used just
24 now.

25 Did you ever express to anyone at Ripple,

1 while you were CCO, that this argument that if
2 FinCEN says XRP is a currency, then that's the end
3 of the securities argument, was very narrow minded?

4 MR. DRYLEWSKI: Objection.

5 And the same instruction, exclude from
6 your answer the substance of any communications you
7 had with Ripple's lawyers, inside or outside
8 counsel.

9 THE WITNESS: I may have.

10 BY MR. SYLVESTER:

11 Q. Can you recall sitting here today any such
12 occasion?

13 MR. DRYLEWSKI: Same instruction.

14 THE WITNESS: No. Not specifically, no.

15 BY MR. SYLVESTER:

16 Q. Do you have a general recollection of
17 speaking about this topic to anyone at Ripple who
18 was not a lawyer outside the presence of counsel?

19 A. I do.

20 Q. Who did you speak with about this topic?

21 MR. DRYLEWSKI: Objection to form.

22 Just so we're clear on what the topic
23 is --

24 MR. SYLVESTER: Fair enough.

25 / /

1 Q. Setting aside conversations with counsel
2 and conversations where counsel were present, while
3 you were Ripple's CCO, who did you speak to about
4 the concept that if FinCEN says XRP is a currency,
5 that's the end of the securities argument?

6 A. Well, you had said, "generally." You
7 included "generally" in the question prior, which is
8 why I said I did.

9 I would have spoken to many on the
10 subject. I just can't say with whom and when and to
11 what degree.

12 Q. Did you have multiple conversations, while
13 you were Ripple's CCO, with others at Ripple who are
14 not attorneys, outside the presence of counsel,
15 about the concept that if FinCEN says XRP is a
16 currency, that's the end of the securities argument?

17 MR. DRYLEWSKI: Object to form.

18 THE WITNESS: The question is so bundled
19 here. That's why I'm --

20 MR. DRYLEWSKI: It's a very long question.
21 If you're confused by it, say so.

22 THE WITNESS: It's not that I'm confused,
23 but you're asking me a very specific matter, which
24 is, you know, something taken out of this document.

25 Did I speak to them about whether or not

1 that was the end of the argument is something very
2 specific to my response to Brad in this case. So
3 that's why I'm having trouble responding to your
4 question.

5 I think it needs to be broader than that.
6 But if you want me to say that that's the end of the
7 securities argument, if it was that conversation,
8 then I don't recall that conversation, no.

9 BY MR. SYLVESTER:

10 Q. Okay. Do you recall having a conversation
11 with anyone at Ripple while you were Ripple's CCO
12 about whether or not FinCEN's reference to XRP as a
13 currency meant that XRP could not be classified as a
14 security?

15 MR. DRYLEWSKI: Objection to form.

16 And exclude from your answer any
17 conversations with counsel at Ripple, inside or
18 outside counsel.

19 THE WITNESS: Okay.

20 MR. DRYLEWSKI: You can answer "yes,"
21 "no," "I don't know," "I don't recall."

22 THE WITNESS: Yes.

23 BY MR. SYLVESTER:

24 Q. With whom did you have those
25 conversations?

1 MR. DRYLEWSKI: Same instruction.

2 THE WITNESS: Brad Garlinghouse, the
3 leadership team, maybe others.

4 BY MR. SYLVESTER:

5 Q. Mr. Larsen?

6 A. I don't think so. I can't say.

7 Q. Who of the leadership team do you recall
8 discussing the topic of whether or not FinCEN's
9 reference to XRP as a currency meant XRP could not
10 be classified as a security?

11 MR. DRYLEWSKI: Objection to form.

12 And for the record, you're only talking
13 about instances outside the presence of counsel?

14 MR. SYLVESTER: That's right. That's
15 right.

16 THE WITNESS: And so, on that note, I
17 would just say legal was present at all leadership
18 team meetings, so ...

19 BY MR. SYLVESTER:

20 Q. Okay. When you were Ripple's CCO, did you
21 have any conversations with Mr. Garlinghouse on the
22 topic of whether or not FinCEN's reference to XRP as
23 a currency meant XRP could not be classified as a
24 security outside the presence of counsel?

25 MR. DRYLEWSKI: You can answer that

1 question "yes," "no," "I don't know," "I don't
2 recall."

3 THE WITNESS: Yes.

4 BY MR. SYLVESTER:

5 Q. What did you say to Mr. Garlinghouse on
6 that occasion or those occasions?

7 MR. DRYLEWSKI: I'm going to ask you to
8 exclude from your answer the substance of any
9 communications that you had with Mr. Garlinghouse
10 that reflected input or communications that you had
11 with Ripple's lawyers.

12 Do you understand?

13 THE WITNESS: I do. Thank you.

14 Okay. You have to repeat the question
15 again, please. Thank you.

16 BY MR. SYLVESTER:

17 Q. What did you say to Mr. Garlinghouse on
18 that occasion or those occasions?

19 MR. DRYLEWSKI: Same instruction.

20 THE WITNESS: To the best of my
21 recollection, what I said to Brad was that XRP, or
22 crypto generally, could be considered property,
23 could be considered -- should be considered a
24 commodity, because the FTC had announced in 2015
25 that it would be considered a commodity in certain

1 circumstances.

2 FincEN called it a "convertible virtual
3 currency." IRS called it "property." And there was
4 a potential that it could be deemed a security
5 depending on facts and circumstances and guidance
6 from the SEC.

7 There was a risk.

8 BY MR. SYLVESTER:

9 Q. Okay. When was that conversation with
10 Mr. Garlinghouse that you just described?

11 A. I couldn't say.

12 Q. Was it -- was it in 2018?

13 MR. DRYLEWSKI: Objection. Asked and
14 answered.

15 THE WITNESS: Honestly, I couldn't say.

16 BY MR. SYLVESTER:

17 Q. Was it near the settlement with FincEN?

18 MR. DRYLEWSKI: Same objection.

19 THE WITNESS: I don't believe he was even
20 an employee at Ripple at the time.

21 BY MR. SYLVESTER:

22 Q. Fair enough.

23 Do you recall if it was before or after
24 your conversation with him about the DAO report?

25 MR. DRYLEWSKI: Same objection.

1 THE WITNESS: Honestly, I have no idea.

2 BY MR. SYLVESTER:

3 Q. Okay.

4 Ms. O'Gorman, your previous

5 answer -- strike that.

6 You write on page 2 of A02:

7 "In U.S., XRP is and will be

8 regulated as property, as a

9 commodity, as convertible virtual

10 security and potentially as a

11 security all depending on facts and

12 circumstances and on how the XRP is

13 used. It's that simple."

14 Is that correct?

15 MR. DRYLEWSKI: Objection to form.

16 THE WITNESS: I wrote that, yes.

17 BY MR. SYLVESTER:

18 Q. When did you first come to the conclusion

19 that XRP may be regulated potentially as a security?

20 MR. DRYLEWSKI: Objection to form.

21 You can answer the question, but I'm going

22 to instruct you, for this question and others that

23 may follow, not to divulge the substance of any

24 communications you may have had with Ripple's

25 lawyers, inside or outside counsel.

1 Do you understand?

2 THE WITNESS: I do. Yeah, I do.

3 So it would be very hard for me to answer
4 that question.

5 BY MR. SYLVESTER:

6 Q. So my question, Ms. O'Gorman, was when.
7 When did you first come to the conclusion that XRP
8 may be regulated potentially as a security?

9 MR. DRYLEWSKI: Objection to form.

10 You can answer the question, if you know.
11 The same instruction.

12 MS. ZORNBERG: Also object to the term
13 "conclusion."

14 THE WITNESS: Yeah, I was going to say, I
15 didn't conclude. It wasn't in my jurisdiction to
16 conclude. I'm not a lawyer.

17 So I can't answer that answer.

18 BY MR. SYLVESTER:

19 Q. You stated in this email XRP may be
20 potentially regulated as a security, in sum and
21 substance; is that fair?

22 A. That's fair.

23 MR. DRYLEWSKI: Objection to form.

24 BY MR. SYLVESTER:

25 Q. Okay. Shall we call that a belief?

1 A. That's very strong. No, it was --

2 Q. It's a statement.

3 A. It was me, my personal opinion.

4 Q. It's a view.

5 A. It's a view.

6 Q. Okay.

7 A. Let's -- that's fine.

8 Q. It's a view.

9 So when did you first come to the view?

10 MR. DRYLEWSKI: Same instruction I gave
11 before. You can answer the question, if you know.

12 MS. ZORNBERG: I'm sorry, for the full
13 sentence, the view that it potentially could be
14 regulated as a security?

15 BY MR. SYLVESTER:

16 Q. Yeah, I'll say it that way.

17 Ms. O'Gorman, when did you first come to
18 the view that XRP could potentially be regulated as
19 a security?

20 MR. DRYLEWSKI: Same instruction. You can
21 answer, if you know.

22 THE WITNESS: I don't know. I can't say.

23 BY MR. SYLVESTER:

24 Q. It was during your tenure as CCO?

25 A. Yes.

1 Q. Did you first start thinking about whether
2 or not XRP might be regulated as a security after
3 you read the December 2016 Coin Center report?

4 MR. DRYLEWSKI: Objection to form.

5 THE WITNESS: That would be a fair
6 statement, yes.

7 BY MR. SYLVESTER:

8 Q. What was it that you read in the
9 December 2016 [REDACTED] report, if anything, that
10 prompted you to begin thinking about whether or not
11 XRP could be regulated as a security?

12 MR. DRYLEWSKI: Objection to form.

13 And I'm going to instruct you not to
14 divulge the substance of any communications you may
15 have had with Ripple's counsel, either inside or
16 outside counsel.

17 Do you understand?

18 THE WITNESS: I do.

19 What was it about the report?

20 It was talking about Bitcoin being
21 potentially a security or not.

22 BY MR. SYLVESTER:

23 Q. In your mind, how did that relate to XRP?

24 MR. DRYLEWSKI: Same objections, same
25 instruction to you.

1 THE WITNESS: Both were convertible
2 virtual currencies, so it had a bearing on the
3 matter, I thought.

4 BY MR. SYLVESTER:

5 Q. Okay. You mentioned here, Ms. O'Gorman,
6 that XRP may be regulated potentially as a security,
7 all depending on facts and circumstances; is that
8 right?

9 A. That's right.

10 Q. Okay. What are those facts and
11 circumstances?

12 MR. DRYLEWSKI: Objection to form. Calls
13 for a legal conclusion.

14 I'm also going to instruct you not to
15 answer to the extent it divulges the substance of
16 any communications that you may have had with
17 Ripple's counsel, inside or outside.

18 Do you understand?

19 THE WITNESS: I do. I do.

20 So I would say I cannot answer that
21 question.

22 BY MR. SYLVESTER:

23 Q. One of the things that you read that
24 discussed whether or not digital assets could be a
25 security was the [REDACTED] report, correct?

1 MS. ZORNBERG: Object to form.

2 MR. DRYLEWSKI: It's not popping up. Hold
3 on one second.

4 MS. MAHONEY: I'm frozen here.

5 Are you guys frozen?

6 MR. TENREIRO: Just for a second, but it's
7 back.

8 MR. DRYLEWSKI: Okay. It's back.

9 THE WITNESS: So one of the articles would
10 have been a [REDACTED] publication, that's true,
11 yeah.

12 BY MR. SYLVESTER:

13 Q. Okay. From your review of the
14 December 2016 [REDACTED] publication, did you learn
15 what, if any, facts and circumstances were relevant
16 to the securities analysis as it applies to digital
17 assets?

18 MR. DRYLEWSKI: Objection to form.

19 If you can separate out and answer that
20 question without revealing the substance of any
21 communications you may have had with Ripple's
22 lawyers or anything you may have learned through
23 discussions with Ripple's lawyers on the topic, then
24 you can answer. But if not, then I'm instructing
25 you not to answer the question on the grounds of

1 privilege.

2 Do you understand?

3 THE WITNESS: I do. I do.

4 On the grounds of privilege, I don't
5 believe I can answer that question.

6 BY MR. SYLVESTER:

7 Q. Okay.

8 Since you left Ripple, have you read
9 anything about the application of the securities
10 laws to digital assets?

11 A. Yes.

12 Q. Again, just through post-Ripple media
13 consumption, have you learned anything about what
14 facts and circumstances contribute to the securities
15 law analysis as it pertains to digital assets?

16 MR. DRYLEWSKI: Object to form.

17 And I'm going to instruct you not to
18 answer on the same grounds that I just did.
19 Although you were not at the company anymore, if you
20 can't separate out what you learned from articles,
21 from what you learned through discussions and
22 communications with Ripple's lawyers when you were
23 CCO, I'll instruct you not to answer on the ground
24 of privilege. If you can, then you can answer the
25 question that was posed.

1 MS. ZORNBERG: I'll just add an objection
2 to form because the question is confusing.

3 THE WITNESS: Could I -- just a point of
4 clarification, with any lawyer? With any lawyer or
5 just Ripple's lawyers?

6 MR. DRYLEWSKI: My instruction is with any
7 lawyer.

8 THE WITNESS: With any lawyer?

9 Yeah, I can't answer the question, then.

10 BY MR. SYLVESTER:

11 Q. Back to the time period when you were
12 Ripple's CCO.

13 A. Sure.

14 Q. What steps, if any, did you take, other
15 than consulting lawyers, to determine whether XRP
16 might be a security?

17 MR. DRYLEWSKI: Objection to form.

18 THE WITNESS: What steps did I personally
19 take, knowing that I'm not a lawyer?

20 I -- I ...

21 MR. DRYLEWSKI: I'm going to -- sorry,
22 give me a second.

23 Object to form. Object to the use of the
24 word "determine."

25 And I'm going to instruct you not to

1 answer to the extent, beyond consulting with
2 lawyers, if there were any steps that you took at
3 the direction of lawyers, to exclude that from your
4 answer.

5 Do you understand?

6 THE WITNESS: I do. I do.

7 MR. DRYLEWSKI: Do you need to hear the
8 question again?

9 THE WITNESS: I understand the question.
10 I'm just going through things in my mind here.

11 It's hard for me to pull legal out of this
12 equation, so I cannot answer.

13 MS. ZORNBERG: Can we take a break,
14 because there's a -- there's a privilege issue here
15 that I just want to review with her.

16 MR. SYLVESTER: Yeah, of course.

17 MS. ZORNBERG: That may be a document.

18 MR. SYLVESTER: Off the record.

19 THE VIDEOGRAPHER: Okay. Off the record
20 at 11:59 a.m.

21 (Whereupon, a recess was taken.)

22 THE VIDEOGRAPHER: This is the beginning
23 of File Number 5.

24 We're back on the record at 12:18 p.m.

25 / /

1 BY MR. SYLVESTER:

2 Q. Ms. O'Gorman, turning your attention to
3 Exhibit A02 again, the third paragraph down on the
4 second page start with a sentence:

5 "I'm sure legal is obtaining
6 outside counsel opinion."

7 Do you see that?

8 A. I do.

9 Q. Okay. And in this paragraph, you advise
10 Mr. Garlinghouse to be sure that it's the right
11 outside counsel advising on XSpring investment
12 opportunities; is that right?

13 A. That's true.

14 Q. My reading of your advice to
15 Mr. Garlinghouse is that the preferred counsel for
16 this purpose would be Mary Jo White's SEC team; is
17 that right?

18 A. That was what I was advising, yeah.

19 Q. Why was Mary Jo White's SEC's team the
20 preferred counsel, in your view?

21 MR. DRYLEWSKI: I'm going to instruct you
22 not to answer to the extent it divulges any
23 communications you had with Ripple's lawyers while
24 you were CCO or while you were at the company.

25 THE WITNESS: Yeah. So I can't answer

1 that question.

2 BY MR. SYLVESTER:

3 Q. Because of Mr. Drylewski's instruction?

4 A. That's right.

5 Q. The next sentence in that paragraph, you
6 write:

7 "If Ripple provides support to
8 ICO-type projects developed on XRP
9 Ledger (or the Ripple protocol as
10 highlighted in the Fincen link
11 (bad)) -- it could mean that XRP
12 Ledger would need to register as a
13 'national exchange' with the SEC."

14 My question for you on that is, you refer
15 to something parenthetically as "bad."

16 What was bad in that sentence?

17 A. So I can't talk specifically about it. I
18 think -- I believe it might have been the link in
19 his article.

20 Q. Meaning the link didn't work; is that
21 right?

22 A. Meaning that it was referencing an article
23 in his email dated 2018, and I don't recall the link
24 myself specifically now.

25 Q. Okay. Turning to the first page of A02,

1 it appears that Mr. Garlinghouse forwarded this
2 email from you to Ms. Long.

3 Would you agree with me?

4 A. That's what it looks like.

5 Q. Ms. Long writes:

6 "I love her, but can rebut
7 each of her points for you. Would
8 prefer to do so live to save time."
9 Do you see that?

10 A. I see that now, yes.

11 Q. And do you see that Mr. Garlinghouse
12 appears to respond to Ms. Long with the word
13 "agree"; would you agree?

14 A. That's what it looks like, yes.

15 Q. Did Ms. Long ever contact you after you
16 left Ripple on any of the topics in this email?

17 A. No.

18 Q. Did Mr. Garlinghouse ever respond in any
19 way to this email rebutting any of the points that
20 you made?

21 MR. DRYLEWSKI: Objection to form.

22 THE WITNESS: That's a double question.
23 Do you want to be very specific here in what you're
24 asking me?

25 MR. SOLOMON: I think she's confused

1 because Mr. Garlinghouse didn't say anything about
2 rebutting anything, maybe?

3 MR. SYLVESTER: Oh, understand.

4 THE WITNESS: You said did he ever --

5 MR. SYLVESTER: Understand. Sure.

6 Q. Regardless of who said what, fair enough.
7 Did Mr. Garlinghouse ever respond to this
8 email?

9 A. In what manner?

10 Q. In any manner.

11 A. Not directly, no.

12 Q. Did he respond indirectly?

13 A. We had a chat. We had a call. We
14 didn't -- we didn't discuss this email, though.

15 Q. Okay. So on the call you're referencing,
16 the topics that you wrote about in this email did
17 not come up?

18 A. They did not, no.

19 Q. Okay.

20 Did you -- this is while you were CCO at
21 Ripple.

22 Did you ever express the view to anyone at
23 Ripple that, because of the FinCEN settlement, XRP
24 could not be classified as a security?

25 MR. DRYLEWSKI: Objection to form.

1 And instruct you not to answer to the
2 extent it divulges any communications that you had
3 with Ripple's counsel, inside or outside.

4 Do you understand?

5 THE WITNESS: I do. I do.

6 Can you repeat the question?

7 BY MR. SYLVESTER:

8 Q. Sure.

9 While you were Ripple's CCO, did you ever
10 express the view to anyone at Ripple that because of
11 the FinCEN settlement, XRP could not be classified
12 as a security?

13 A. No.

14 MR. DRYLEWSKI: The same objection. The
15 same instruction.

16 THE WITNESS: Yeah.

17 No.

18 BY MR. SYLVESTER:

19 Q. Okay. Ms. O'Gorman, are you familiar with
20 a speech that the former director of the ICC's
21 corporation finance Bill Hinman gave in 2018?

22 A. Yes.

23 Q. That was after you left Ripple?

24 A. I couldn't say exactly. I think it was
25 prior to, but I don't know.

1 It was early in 2018, wasn't it? I left
2 in April.

3 Q. Did you ever discuss the
4 contents -- strike that.

5 Did you read the Hinman speech?

6 MS. ZORNBERG: Can I make a request from
7 the SEC, since you know the date of the Hinman
8 speech, to just clear up the lack of recollection --

9 MR. SYLVESTER: Sure --

10 MR. TENREIRO: June 14, 2018.

11 THE WITNESS: Okay. So that was after I
12 left Ripple that I read it.

13 BY MR. SYLVESTER:

14 Q. You did read the speech?

15 A. (Nods head.)

16 Q. Okay. Did you ever communicate with
17 anyone at Ripple about the Hinman speech?

18 A. I don't recall. Not to my recollection.
19 No.

20 Q. Do you recall if you had read the Hinman
21 speech prior to writing this July 19th, 2018 email
22 to Mr. Garlinghouse?

23 A. No. It had no bearing on the fact that
24 this was a response to the quarterly investor update
25 that Brad provided.

1 MR. SYLVESTER: Let's move on to
2 Exhibit 3, please.

3 MR. DRYLEWSKI: Set that to the side.

4 (Whereupon, Deposition Exhibit AO-3
5 was marked for identification.)

6 MR. DRYLEWSKI: Thanks.

7 BY MR. SYLVESTER:

8 Q. Ms. O'Gorman, I can see you're reviewing
9 the email, so let me know when you're ready to
10 answer questions.

11 A. Okay. Thank you.

12 I'm ready.

13 Q. All set? Okay. Great.

14 So this appears to be an email from you,
15 Ms. O'Gorman, to Patrick Griffin sent on June 4th,
16 2019.

17 Does that look right to you?

18 A. That's what it appears to be, yes.

19 Q. Okay. Do you recall sending this email?

20 A. I do.

21 Q. Okay. The second paragraph of the email,
22 you write:

23 "So Brad says -- and I have to
24 agree -- that the SEC won't opine
25 on XRP being a security while Jay